BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

APPEAL NO. 529 OF 2025 (WZ)

I.A. No.175 of 2026 (WZ)

I.A. No.221 of 2026 (WZ)

Akshay Sunil Jagtap

...Appellant

Versus

SEIAA Maharashtra & Ors.

...Respondents

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REPLY / OBJECTIONS TO INTERLOCUTORY APPLICATION NO. 221 OF 2026 FILED BY RESPONDENT NO. 7

MOST RESPECTFULLY SUBMITTED:

A. SYNOPSIS

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1. The present Reply/Objections are filed in opposition to the Interlocutory Application by Respondent No. 7 seeking dismissal of the Appeal on allegations directed against the Appellant rather than on the environmental merits of the case.
2. The Appeal raises substantial questions relating to the environment concerning, inter alia, the existence, diversion, alteration and channelisation of a natural watercourse/nala/Stream passing through the project site; **entering into stream & obstructs of natural/proper flow of water of stream in a manner leading to substantial aggrevation of pollution**, obstruction to the natural flow of water posing a threat to life and property of local residents; risk of flooding , obstruction and alteration of its natural flow, drainage and storm-water management, the impact of such activities on the natural drainage pattern; compliance with the Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act, 1986; and the legality of the Environmental Clearance and related approvals granted in respect of the project.

3. Instead of addressing the aforesaid environmental issues, Respondent No. 7 has sought to challenge the maintainability of the Appeal primarily on the basis of allegations concerning the Appellant's alleged motives, prior interactions, commercial dealings, previous proceedings and other collateral matters. Such allegations neither establish environmental compliance nor answer the environmental concerns raised in the Appeal.
4. The environmental legality of a project is required to be examined on the basis of statutory compliance, environmental safeguards, scientific material and documentary evidence and not on the basis of the identity, profession, personal history or alleged motives of the person bringing environmental concerns to the notice of this Hon'ble Tribunal.
5. Significantly, several documents relied upon by Respondent No. 7 itself acknowledge the existence of a natural nala/watercourse/STREAM and the necessity of examining proposals concerning its diversion, shifting, channelisation or modification. The materials relied upon by Respondent No. 7 include engineering correspondence, hydrogeological studies, regulatory presentations and documents relating to nala diversion/channelisation. These documents themselves demonstrate that the environmental issues raised in the Appeal are real, substantial and require adjudication on merits.
6. The Appellant further submits that this Hon'ble Tribunal, by orders dated 19.11.2025 and 11.12.2025, directed production of documentary material and thereafter considered such material on record for further examination of the issues involved in the Appeal. The proceedings have thus progressed on the basis of documentary evidence and environmental issues requiring consideration and cannot be short-circuited through allegations unrelated to environmental compliance.
7. The Appeal also raises issues concerning the legal implications of altering, diverting or channelising a natural watercourse and the consequential impact upon drainage, flooding, waterlogging and environmental protection. These questions require examination under applicable environmental laws, including the Water (Prevention and Control of Pollution) Act, 1974, and cannot be dismissed merely on allegations directed against the Appellant.
8. The following questions arise for consideration while deciding Interlocutory Application No. 221 of 2026:

i. Whether allegations directed against the Appellant can override or preclude judicial examination of the environmental issues raised in the Appeal?

ii. Whether diversion, relocation, channelisation or modification of a natural Nala / watercourse/STREAM raises substantial environmental questions warranting adjudication by this Hon'ble Tribunal?

iii. Whether official records and statutory documents placed on record by the Appellant disclose issues requiring consideration on merits?

iv. Whether Respondent No.7 has established any legally sustainable ground warranting dismissal of the Appeal ?

v. Whether the Appeal deserves adjudication in accordance with the principles of environmental justice, precautionary principle, sustainable development and public trust doctrine?

9. The Interlocutory Application is therefore a misplaced attempt to divert attention from the substantive environmental issues arising in the Appeal and is liable to be rejected. The Appeal deserves to be adjudicated on merits after examination of the environmental, statutory and factual issues involved.

Accordingly, Respondent No. 7's Interlocutory Application deserves to be dismissed and the Appeal proceeded with in accordance with law.

B. LIST OF DATES AND EVENTS:

Date	Event	Details / Relevance
26.07.2024 – 06.09.2024	ToR proposal submitted (INFRA2/489762/2024)	Fresh **ToR** for same land (Mentioned S. No. 84 series, Mundhwa).
06. 09.2024- 19.09.2024	Examination / EDS cycle	Scrutiny of ToR application.
12.11.2024	**Standard ToR granted**	ToR issued for full EIA/EMP & **public consultation**.
13.02.2025	**Fresh EC proposal filed** (INFRA2/523378/2025)	**Second, parallel** proposal for **direct EC** without disclosing ToR pendency—**suppression**.

13.02.2025–12.04.2025	MS verification (EC proposal)	Processed as routine EC despite active ToR.
12.04.2025–07.05.2025	"Proposal accepted & referred to SEAC"	No record that SEAC was apprised of prior ToR.
28.05.2025–16.07.2025	Referred to SEIAA	**Minutes/meeting date not recorded** in EC.
16.07.2025	**EC granted (EC25B3813MH5661182N)**	Cause of action arise from the date of grant of **EC**
Monsoon 2025 (photos filed)	**Waterlogging & traffic choke** on abutting road	Visual evidence of **naala obstruction/ encroachment**; flood risk to public.
13.08.2025	Appeal filed before NGT (WZ)	Within **30 days** of EC; continuing cause (naala encroachment).

C. PARAGRAPH WISE REPLY / OBJECTIONS TO I.A. NO.221/2026:

REPLY TO PARAGRAPH 2:

The contents of Paragraph 2 are denied as false, baseless, vague and unsupported by any material on record. The allegation that the Appellant is a non-bona fide litigant acting with mala fide intent is a mere assertion made without particulars and is liable to be rejected.

It is respectfully submitted that this Hon'ble Tribunal, by its orders dated 19.11.2025 and 11.12.2025, directed the Appellant to place complete facts, grounds and supporting documentary evidence on record and thereafter took the same into consideration. The present Appeal is founded upon documentary evidence and statutory environmental concerns affecting public interest. Had the Appeal been frivolous, mala fide or lacking bona fides, the same would not have progressed to the present stage after repeated judicial scrutiny. The allegation is therefore misconceived, amounts to an attempt to divert attention from the substantive environmental issues raised in the Appeal, and deserves to be rejected.

REPLY TO PARAGRAPH 3:

The contents of Paragraph 3 are emphatically denied as false, misleading, speculative and unsupported by any documentary evidence. The Respondent No. 7 has made a serious allegation that the Appellant sought excavation work allegedly worth Rs.50 Crore and, upon failure to secure the same, filed the present Appeal. No contract, correspondence, tender document, proposal, quotation, communication, meeting record, financial transaction or any other material whatsoever has been produced in support of such allegation. The averment is therefore nothing more than a bald assertion made for the purpose of discrediting the Appellant and diverting attention from the environmental issues raised in the present proceedings.

It is submitted that the maintainability and merits of an environmental proceeding are required to be determined on the basis of facts, statutory compliance and environmental records placed before this Hon'ble Tribunal and not on unsubstantiated allegations concerning the motives of the person bringing such facts to the notice of the Tribunal. Even assuming, without admitting, that there had been any prior interaction between the parties, the same would neither validate any environmental violation nor extinguish the jurisdiction of this Hon'ble Tribunal to examine the legality of the impugned actions. The Respondent No. 7 cannot seek dismissal of the Appeal by raising collateral allegations which have no bearing upon compliance with environmental laws. The Appellant specifically states that no document evidencing any alleged Rs.50 Crore excavation arrangement, negotiation, promise, commitment or entitlement exists

It is further submitted that the present Appeal is supported by documentary material obtained from competent authorities, Parivesh Portal and raises substantial questions relating to environmental compliance and public interest. The repeated attempt of Respondent No. 7 to attribute ulterior motives to the Appellant, instead of addressing the environmental issues on merits, itself demonstrates an effort to evade scrutiny of the matters raised in the Appeal. The allegations contained in this paragraph are therefore liable to be rejected in toto.

REPLY TO PARAGRAPH 4:

The contents of Paragraph 4 are denied as misconceived, legally untenable and irrelevant to the issues arising in the present Appeal. The Respondent No. 7 erroneously seeks to suggest that the existence of an earlier project, Environmental Clearance or developmental activity undertaken by

a different Project Proponent on the subject land somehow precludes scrutiny of the impugned Environmental Clearance and related approvals presently under challenge. Such a contention is contrary to settled environmental jurisprudence, which mandates that every Environmental Clearance, project modification, subsequent approval and stage of development must independently satisfy statutory requirements, environmental safeguards and the principles of sustainable development, precaution and environmental accountability. The allegation that the Appellant did not raise objections during the execution of an earlier project is wholly irrelevant, as environmental obligations are continuous in nature and neither acquiescence, delay nor the absence of prior objections can validate an illegality, cure procedural defects, legitimize environmental non-compliance or bar examination of substantial environmental issues subsequently brought to light. The present Appeal is founded upon the legality and environmental consequences of the approvals presently impugned, including concerns relating to the watercourse, drainage pattern, environmental impacts and compliance with applicable legal and regulatory requirements, which must be examined on the basis of the existing record and governing law. Merely because certain features, proposals or activities may have existed or been considered in connection with a previous project does not create any presumption of legality, environmental sustainability or immunity from judicial review. The Respondent No. 7 has failed to demonstrate any nexus between the alleged existence of a prior project and the legality of the impugned Environmental Clearance, and the averments contained in Paragraph 4 are therefore liable to be rejected.

REPLY TO PARAGRAPH 5 (A) TO (E):

The contents of Paragraph 5 and its sub-paragraphs (a) to (e) are denied as false, misleading, speculative, defamatory in nature and wholly irrelevant to the adjudication of the environmental issues arising in the present Appeal. The Respondent No. 7 has sought to compile various unrelated proceedings, complaints, applications, RTI requests and personal allegations in an attempt to discredit the Appellant instead of addressing the substantive environmental concerns raised in the Appeal.

REPLY TO PARAGRAPH 5 (A):

The contents of Paragraph 5(a) are denied insofar as they seek to draw adverse and unsupported inferences from the withdrawal of Appeal No. 523 of 2025. It is admitted that the said Appeal was withdrawn on 04.11.2025; however, the Respondent has deliberately attempted to portray such withdrawal as evidence of an alleged settlement without producing a single document in support thereof. No settlement agreement, consent terms, undertaking, consideration, correspondence, affidavit, statement, or order recording any compromise has been placed on record. Mere withdrawal of a proceeding, without adjudication on merits, cannot in law be equated with settlement, nor can any adverse inference be drawn on the basis of conjecture and speculation. Significantly, the said Appeal pertained to a different project, a different Project Proponent, a different Environmental Clearance, and a wholly independent cause of action arising from distinct facts and circumstances. The legality and environmental implications of the impugned Environmental Clearance under challenge in the present proceedings must be examined on their own merits and cannot be determined by reference to unrelated proceedings involving third parties. The Respondent's attempt to create an artificial linkage between an unrelated proceeding and the present Appeal is manifestly misconceived and appears intended solely to divert attention from the substantial environmental and statutory issues arising from the impugned Environmental Clearance under challenge before this Hon'ble Tribunal through insinuations unsupported by any evidence whatsoever. In the absence of proof of any settlement or improper benefit, the allegations contained in Paragraph 5(a) are liable to be rejected as speculative, irrelevant, and devoid of evidentiary value.

REPLY TO PARAGRAPH 5(B):

The contents of Paragraph 5(b) are denied as false, misleading, unsubstantiated and contrary to law. The allegation that the Appellant approached Respondent No. 7 for excavation work at the project site and, upon failure to secure such work, filed the present Appeal is specifically denied. The Respondents' reliance on the email dated 12.04.2024 to allege mala fides is wholly misconceived, misleading and contrary to the documentary record itself. The said communication was addressed to the Project Proponent solely in the context of its widely publicized representations in national media that the project would be a model of sustainable development, adhere to net-zero standards, safeguard the environment and generate substantial employment opportunities. . **Also at that time, TOR proposal not submited. TOR submited**

on 26.07.2024.The Appellant, acting in furtherance of environmental vigilance and public participation, merely sought to understand the implementation of such publicly proclaimed environmental and policy commitments, including those relating to local employment reflected in the Government Resolution dated 17.11.2008. Significantly, the very correspondence relied upon by the Respondents conclusively establishes that no quotation was submitted by the Appellant, no tender process was participated in, no commercial negotiation or meeting took place, no work order was issued, no agreement or contractual relationship came into existence, and no financial, pecuniary or personal benefit was either sought or received. In the complete absence of any commercial dealing or conflict of interest, the allegation that the Appellant is a non-bona fide or motivated litigant is entirely speculative, unsupported by evidence and liable to be rejected outright. The Respondents have deliberately ignored the true context and contents of the communication and have sought to manufacture an adverse inference where none exists, evidently to divert attention from the substantive environmental issues and legal infirmities raised in the present Appeal, which merit adjudication strictly on the basis of environmental compliance, statutory obligations and the public interest involved

It is further submitted that the existence of an earlier Environmental Clearance granted in favour of a different Project Proponent does not, by itself, constitute a defence to the legality of the impugned Environmental Clearance and related actions presently under challenge. Each Environmental Clearance, each project stage and each environmental compliance requirement must independently satisfy the applicable statutory provisions. The Respondent No. 7 cannot seek validation of the present project merely by referring to an earlier approval granted to another entity. The contention that similar concerns regarding diversion, channelization or alteration of the watercourse existed in connection with an earlier project is also misconceived. Even assuming such issues existed previously, the same would not render them immune from scrutiny nor would it cure any present illegality, environmental non-compliance or deficiency in the approval process. An environmental concern does not cease to be a concern merely because it may have existed earlier.

The Respondent No. 7 has further sought to rely upon the fact that no proceedings were initiated by the Appellant in relation to the earlier project during the preceding years. Such contention is legally untenable. The absence of earlier litigation cannot operate as a waiver of environmental

safeguards, cannot validate an otherwise unlawful action, and cannot deprive any person of the right to bring environmental concerns before the competent forum when such concerns come to light or require adjudication. It is respectfully submitted that the present Appeal is founded upon the record presently available, the impugned Environmental Clearance, and the environmental issues arising therefrom. The Respondent No. 7 has failed to establish any nexus between the allegations made in this paragraph and the merits of the environmental issues requiring consideration by this Hon'ble Tribunal. The averments contained in Paragraph 5(b) are therefore denied and liable to be rejected.

REPLY TO PARAGRAPH 5(C):

The allegations sought to be raised by Respondent No. 7 concerning the complaint filed before the Bar Council are wholly irrelevant, extraneous and incapable of having any bearing on the adjudication of the present Appeal. **The said complaint was filed bona fide before a competent statutory authority on the basis of official records and documents obtained from public authorities, and merely invited an independent examination of matters falling within the disciplinary jurisdiction of the Bar Council. Significantly, no finding has been produced by the competent authority holding the complaint to be frivolous, malicious or vexatious**. In any event, the Bar Council proceedings constitute separate and independent statutory proceedings and have no nexus whatsoever with the environmental issues arising for consideration before this Hon'ble Tribunal. The legality of the impugned Environmental Clearance, compliance with environmental laws and the environmental consequences of the project must be determined solely on the basis of the environmental record and applicable legal principles. The attempt of Respondent No. 7 to rely upon unrelated proceedings and attribute ulterior motives to the Appellant is nothing but an effort to divert attention from the substantive environmental issues and alleged violations requiring adjudication in the present Appeal. Such allegations are devoid of evidentiary value, irrelevant to the present proceedings and liable to be disregarded in their entirety.

REPLY TO PARAGRAPH 5(D):

Without prejudice to the foregoing submissions, it is respectfully submitted that the proceedings concerning M/s Speciality Landmarks Pvt. Ltd. arose from multiple and distinct causes of action involving separate environmental, regulatory and statutory issues falling within the jurisdiction of different competent authorities. The said proceedings were neither based upon a singular allegation nor confined to a single regulatory aspect, but comprised independent grievances requiring examination by the respective authorities in accordance with their statutory mandates. Significantly, one such proceeding culminated in a penalty/recovery order dated 03.11.2025 issued by the Tahsildar, Pune City, in relation to unauthorised extraction of minor minerals. The issuance of such an order by a competent statutory authority demonstrates that the concerns raised by the Appellant were not frivolous, speculative or imaginary, but were considered sufficiently credible to warrant official scrutiny, investigation and consequential regulatory action. The Respondent No. 7's attempt to portray the said proceedings as baseless or motivated is therefore contrary to the record and liable to be rejected.

It is further submitted that the Appellant does not rely upon the aforesaid order or any findings rendered in separate proceedings as proof of violations in the present Appeal, nor seeks to import conclusions from another matter into the adjudication of the present dispute. The legality of the impugned Environmental Clearance and the environmental consequences of the present project must be examined independently on the basis of the project-specific facts, statutory approvals, environmental records and applicable legal requirements governing the present case. Merely because one or more aspects of earlier proceedings were not pursued further, concluded differently, or attained finality in a particular manner, no adverse inference can be drawn regarding either the bona fides of the Appellant or the merits of the present Appeal. Such an approach would be legally unsustainable, particularly when the issues arose from separate causes of action and were subjected to examination by different statutory authorities exercising distinct jurisdictions. The Respondent No. 7's attempt to equate the non-pursuit of a distinct proceeding with absence of merit in the present Appeal is therefore wholly misconceived, unsupported by law, and constitutes an impermissible effort to divert attention from the substantive environmental issues requiring determination by this Hon'ble Tribunal.

REPLY TO PARAGRAPH 5(E):

The contents of Paragraph 5(e) are denied as false, speculative, defamatory and unsupported by any credible evidence. The Respondent No. 7 has attempted to characterize the Appellant's exercise of statutory rights under the Right to Information Act, 2005 and environmental laws as a so-called "modus operandi" without producing any material capable of establishing such an allegation.

Without prejudice to the foregoing, the attempt of Respondent No. 7 to portray the Appellant's use of the Right to Information Act, 2005 as evidence of mala fides or an alleged "modus operandi" is contrary to the very object and spirit of the RTI Act. It is submitted that the statutory right to seek information cannot be curtailed, stigmatized or treated as a ground to discredit a citizen merely because such right is exercised frequently. Significantly, the High Court of Orissa in W.P.(C) No. 29216 of 2025 (Chittaranjan Sethy v. Odisha Information Commission & Ors.), by order dated 15.01.2026, categorically held that restrictions imposed upon an applicant on the ground that he had filed numerous RTI applications were unjustified and liable to be set aside, observing that a public authority could not restrict the exercise of the statutory right to information merely because multiple applications had been filed. The said principle directly negates the insinuation sought to be advanced by Respondent No. 7 that the number of RTI applications filed by the Appellant is indicative of any improper motive. In the absence of any evidence of abuse of process, the exercise of statutory rights under the RTI Act can neither be characterized as harassment nor be used to undermine the bona fides of environmental concerns raised before competent authorities. The allegations contained in this paragraph are therefore not only unsupported by evidence but are legally untenable and wholly irrelevant to the determination of the environmental issues arising in the present Appeal.

REPLY TO PARAGRAPH 6:

The contents of Paragraph 6 are denied as false, misconceived and contrary to the record. The Respondent No. 7 has incorrectly asserted that the present Appeal does not raise any "substantial question relating to environment" within the meaning of Section 2(m) of the National Green Tribunal Act, 2010. The said contention is unsustainable in law as well as on facts.

At the outset, it is submitted that the present Appeal concerns, inter alia, the legality of the impugned Environmental Clearance, the treatment, diversion, alteration and/or channelization of a natural watercourse/STREAM, the impact upon drainage patterns, storm-water flow and environmental safeguards, and the compliance of the project with applicable environmental laws, WATER ACT and regulatory requirements. These issues are inherently environmental in nature and directly affect environmental resources and public interest.

The concerns raised in the Appeal are not confined to any private dispute between individuals. The issues relate to a natural watercourse and environmental features which affect and are capable of affecting surrounding areas, downstream flow conditions, drainage systems, flood management, ecological functions and the community at large. Consequently, the matters raised fall squarely within **Section 2(m)(i)(A) of the National Green Tribunal Act, 2010**, which contemplates situations where the community at large is affected or likely to be affected by environmental consequences arising from a direct violation of environmental obligations.

Further, the allegations raised in the Appeal relate to specific project activities undertaken at an identified site and the environmental consequences flowing therefrom. The subject matter therefore falls within **Section 2(m)(ii) of the Act**, which expressly includes environmental consequences relating to a specific activity or point source. The Respondent No. 7's attempt to portray the Appeal as devoid of environmental issues is therefore contrary to the statutory scheme itself. Without prejudice to the above, where the subject matter concerns a natural watercourse, drainage channel, nallah, stream, flood-flow path or similar environmental feature, any alteration, diversion, obstruction, channelization or modification thereof has the potential to affect hydrology, storm-water management, flooding patterns, water quality, ecology and public safety. Such matters are inherently environmental in character and cannot be dismissed as issues lacking a substantial question relating to the environment. The averments contained in Paragraph 6 are therefore denied and liable to be rejected.

REPLY TO PARAGRAPH 7:

It is respectfully submitted that the assertions of Respondent No. 7 are speculative, self-serving and unsupported by any credible scientific, hydrological, hydraulic or environmental assessment.

The Respondent seeks to justify the widening, straightening and channelization of a natural watercourse merely on the basis of assumed improvements in flow characteristics, without placing on record any expert study, hydraulic modelling, flood analysis, environmental impact assessment or approval demonstrating that such intervention would not adversely affect the natural drainage regime, flood behaviour, sediment transport, groundwater recharge functions, ecological characteristics or downstream environmental conditions. Environmental acceptability of altering a natural stream, nallah or watercourse cannot be determined by engineering assumptions or commercial convenience but must be established through scientific evaluation and regulatory scrutiny consistent with the precautionary principle and sustainable development jurisprudence. The mere fact that the inlet and outlet points remain unchanged does not negate the possibility of significant environmental impacts arising from changes in alignment, channel geometry, flow velocity, cross-section, embankments or hydraulic behaviour. In the absence of cogent technical material establishing that the modification of the natural watercourse is environmentally sustainable, legally compliant and free from adverse consequences, the averments contained in Paragraph 7 remain unsubstantiated assertions incapable of displacing

the substantial environmental concerns raised in the present Appeal and are therefore denied and liable to be rejected.

REPLY TO PARAGRAPH 8:

It is respectfully submitted that the Respondent No. 7 has incorrectly sought to portray the present dispute as a matter confined to municipal planning permissions, Development Control Regulations and the UDCPR, whereas the Appeal raises substantial environmental questions arising from the alteration, diversion, channelization and integration of a natural watercourse/nallah/STREAM into an engineered drainage system. The Respondent's own pleadings acknowledge the existence of a natural watercourse carrying storm water, and once such a natural drainage feature is admittedly affected, the consequential impacts upon hydrology, drainage patterns, storm-water flow, flood risk, water quality, ecology and environmental safety necessarily fall within the ambit of environmental scrutiny. The existence of permissions or approvals granted by municipal or planning authorities cannot, by itself, exclude the applicability of environmental laws or oust the jurisdiction of this Hon'ble Tribunal, as compliance with

planning statutes and compliance with environmental obligations operate in distinct and independent fields. Equally, the mere existence of studies, reports or municipal approvals does not conclusively establish the absence of environmental consequences, the adequacy and legality thereof being matters requiring examination on the basis of the record and applicable environmental principles. The Respondent cannot simultaneously rely upon the existence of a natural watercourse/stream to justify its actions and contend that no environmental issue arises therefrom. The present Appeal, therefore, squarely raises substantial questions relating to the environment concerning **entering into stream & obstructs of natural/proper flow of water of stream in a manner leading to substantial aggrevation of pollution**, obstruction and alteration of its natural flow, drainage and storm-water management. The modification of a natural watercourse and the environmental consequences flowing therefrom, and the contrary assertions of Respondent No. 7 are denied and liable to be rejected.

REPLY TO PARAGRAPH 9:

The reliance placed by Respondent No. 7 on the order dated 21.11.2025 passed in O.A. No. 138 of 2025 (WZ) is wholly misconceived and distinguishable on facts. The said Original Application was dismissed at the threshold because the applicant therein failed to produce any material demonstrating that the alleged nala formed part of an official drainage system, failed to establish any statutory prohibition against the permitted relocation of the nala, and further failed to challenge the specific municipal permission authorizing such relocation. The dismissal was thus founded on the absence of supporting evidence and the existence of an unchallenged statutory approval. The said decision does not lay down any absolute proposition insulating environmental clearances or statutory permissions from judicial scrutiny; rather, it reinforces the settled principle that environmental adjudication must be founded upon specific pleadings, supporting evidence, and a challenge to the relevant statutory approvals. The averments contained in Paragraph 9 are therefore denied and liable to be rejected.

REPLY TO PARAGRAPH 10:

At the outset, the reliance placed upon the judgment of the Hon'ble Supreme Court in State of Uttar Pradesh & Ors. v. Uday Education and Welfare Trust & Anr. (Civil Appeal Nos. 2407–

2412 of 2021, decided on 21.10.2022) is misconceived and does not advance the case of the Respondent. The said matter arose from a challenge to the grant of licences to wood-based industries, where the principal controversy related to the adequacy of timber availability and the correctness of technical assessments undertaken by expert statutory bodies. The Hon'ble Supreme Court found that the Forest Survey of India (FSI), an undisputed expert body, had conducted a detailed scientific assessment using recognised methodology and satellite-based data, and that neither any actual environmental degradation nor any violation of environmental law had been established before the Tribunal. It was in those peculiar facts that the Hon'ble Court held that the National Green Tribunal could not lightly disregard expert scientific findings or substitute its own assumptions in place of technical assessments undertaken by competent authorities. The judgment, therefore, turned upon the limited issue of judicial review of expert opinion and the impermissibility of the Tribunal sitting in appeal over a duly conducted scientific study in the absence of material demonstrating illegality, irrationality, or procedural impropriety.

The present proceedings stand on an entirely different footing. The Appellant is not inviting this Hon'ble Tribunal to disregard expert evidence; rather, the grievance concerns statutory non-compliance, **entering into stream & obstructs of natural/proper flow of water of stream in a manner leading to substantial aggrevation of pollution**, obstruction and alteration of its natural flow, drainage and storm-water management, suppression of material facts, and the legality of actions affecting environmental safeguards and natural drainage systems, which are matters squarely falling within the jurisdiction of this Hon'ble Tribunal. Far from assisting the Respondent, the aforesaid judgment reinforces the principle that environmental decision-making must be founded upon credible scientific material, transparency, and strict adherence to the statutory framework. The Hon'ble Supreme Court expressly recognised that judicial review remains available where the decision-making process is vitiated by illegality, irrationality, or procedural impropriety. Therefore, if environmental clearances, permissions, hydrological assessments, drainage studies, or project approvals have been granted without complete disclosure of relevant facts, without proper scientific evaluation, or in derogation of applicable environmental norms, the Tribunal is not only empowered but duty-bound to intervene. The ratio of the said judgment thus supports the Appellant's case that environmental governance must be evidence-based, lawful, and transparent, and that no project proponent can claim protection

merely by relying upon administrative approvals where the underlying decision-making process itself is under challenge for environmental non-compliance.

REPLY TO PARAGRAPH 11:

The reliance placed by Respondent No. 7 upon the judgment of the Hon'ble Supreme Court in Subhash Kumar v. State of Bihar & Ors., (1991) 1 SCC 598, is wholly misconceived and inapplicable to the facts of the present proceedings. The ratio of the said judgment is not that an environmental proceeding becomes non-maintainable merely because the applicant had prior dealings, correspondence, or acquaintance with the project proponent. On the contrary, the Hon'ble Supreme Court recognized that proceedings seeking prevention of environmental pollution are maintainable at the instance of affected persons, social workers, journalists, and persons genuinely interested in protection of the environment and public welfare. The petition in Subhash Kumar was dismissed on its peculiar facts because the Court found, upon examination of the record, that the petitioner was pursuing a private commercial dispute relating to slurry collection rights and had sought relief advancing his own business interests rather than environmental protection. The present case stands on an entirely different footing. The Appellant seeks no commercial benefit, no contractual advantage, no monetary gain, no proprietary interest, or no business relief of any nature. The reliefs sought are exclusively directed towards examination of environmental compliance, legality of statutory approvals, **protection of environmental resources, natural drainage and storm-water management** and enforcement of obligations arising under environmental laws. Mere reliance upon an isolated past communication addressed to the project proponent cannot convert a bona fide environmental grievance into a personal dispute, nor can it operate as a defence to alleged environmental violations. The attempt of Respondent No. 7 to invoke Subhash Kumar is therefore a deliberate misapplication of the judgment and appears intended to divert attention from the substantive environmental issues requiring adjudication by this Hon'ble Tribunal on their own merits.

REPLY TO PARAGRAPH 12:

The contents of Paragraph 12 are denied as misconceived and inapplicable to the facts of the present case. The reliance placed upon *The Auroville Foundation v. Navroz Kersasp Mody &*

Ors. is misplaced, as the present Appeal specifically raises substantial questions relating to environment concerning the impugned Environmental Clearance, interference with a natural stream/watercourse, **entering into stream & obstructs of natural/proper flow of water of stream in a manner leading to substantial aggrevation of pollution**, obstruction and alteration of its natural flow, drainage and storm-water management, and the resulting environmental consequences. However, the Respondent No. 7 has failed to demonstrate that the factual circumstances of the present Appeal are comparable to those considered by the Hon'ble Supreme Court in the aforesaid judgment. The observations relied upon were rendered in the context of the specific facts of that case and cannot be mechanically extended to every environmental proceeding without first examining the nature of the issues raised and the statutory framework involved.The Appellant has specifically alleged violations arising from project activities affecting a natural environmental resource and consequential aggravation of pollution and environmental impacts. These issues fall squarely within the jurisdiction of this Hon'ble Tribunal and are clearly distinguishable from cases where no substantial environmental question or Schedule-I enactment issue was involved. The Respondent No. 7 has therefore failed to demonstrate how the aforesaid judgment excludes the jurisdiction of this Hon'ble Tribunal in the facts and circumstances of the present Appeal, and the averments contained in Paragraph 12 deserve to be rejected.

D. REPLY TO THE RESPONDENT'S RELIANCE ON THE GODREJ PROPERTIES EMAIL CORRESPONDENCE OBTAINED THROUGH RTI :

The Respondents' reliance on the email correspondence forwarded by Mr. Jagannath Kadam of Godrej Properties is wholly misconceived and irrelevant to the present proceedings. The email in question was merely a bona fide response by the Appellant to a communication issued by Mr. Manjunatha P.S., an officer of Godrej Properties, seeking quality-related documentation in connection with vendor evaluation and project compliance. The Appellant's reply sought clarification regarding SOP requirements, documentation submissions and vendor qualification criteria, which are ordinary commercial matters having no connection whatsoever with the environmental issues involved in the present Appeal. Significantly, the correspondence pertains exclusively to officials of Godrej Properties and arose in the context of separate professional interactions with that company, whereas the present proceedings concern the Environmental

Clearance granted to Bajaj Finserv Ventures Ltd. The internal forwarding of the Appellant's email by Godrej Properties officials, including Mr. Nikhil Bhalgat and Mr. Jagannath Kadam, merely reflects administrative circulation within that organization and does not establish any impropriety, mala fides or ulterior motive on the part of the Appellant. The Respondents have failed to demonstrate any nexus between this correspondence and the environmental violations challenged in the present Appeal. The attempt to rely upon unrelated professional correspondence from a different company is a collateral and extraneous exercise intended to divert attention from the substantive environmental issues requiring adjudication and therefore deserves to be rejected outright.

E. REPLY TO THE RESPONDENT'S RELIANCE ON THE CONSENT TO ESTABLISH:

The Respondent's reliance upon the Consent to Establish issued under the Water Act is wholly misconceived and does not answer the specific challenge raised by the Appellant under Section 24(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974. A Consent to Establish is merely a regulatory permission granted on the basis of the material placed before the Pollution Control Board and cannot be construed as a conclusive adjudication that the proposed activity is incapable of causing pollution or that the requirements of Section 24 stand fully satisfied. The grant of such consent neither overrides nor forecloses scrutiny of the environmental consequences of the project while examining the legality of the Environmental Clearance. The Appellant's case is that the environmental appraisal failed to adequately consider and address the implications arising under Section 24(1)(b), including the likelihood of pollution and adverse impacts upon water resources and the receiving environment. Therefore, the mere production of a Consent to Establish cannot cure any deficiency in environmental appraisal, cannot create a presumption of statutory compliance, and cannot defeat a challenge founded upon substantive environmental violations and non-consideration of relevant factors while granting the impugned Environmental Clearance. The annexed Consent to Establish is thus neither determinative of the issues arising in the present Appeal nor a valid defence to the specific grounds urged by the Appellant.

F. REPLY TO THE RESPONDENT'S RELIANCE ON THE MOM OF SEIAA TO BAJAJ FINSER VENTURES LTD & ORS:

The Respondent's reliance upon the Minutes of Meeting of the SEIAA/SEAC concerning the project is misplaced and legally unsustainable. The Minutes of Meeting merely record the discussions, submissions and observations made during the appraisal process and cannot, by themselves, constitute conclusive proof that all relevant environmental concerns were adequately examined or that the impugned Environmental Clearance is free from legal infirmity. The existence of deliberations in the Minutes does not preclude judicial scrutiny of whether material environmental facts were correctly disclosed, whether relevant statutory provisions were properly considered, whether the appraisal process suffered from non-application of mind, or whether the ultimate decision complies with the requirements of environmental law. It is well settled that the validity of an Environmental Clearance must be assessed on the basis of substantive compliance with statutory requirements and environmental safeguards and not merely on the fact that meetings were held or discussions were recorded. Consequently, the annexed Minutes of Meeting neither answer the specific grounds raised in the present Appeal nor cure the defects and omissions pointed out by the Appellant in the environmental appraisal and decision-making process leading to the grant of the impugned Environmental Clearance.

G. REPLY TO THE RESPONDENT'S RELIANCE ON THE STORM WATER DRAINAGE DEPARTMENT COMMUNICATION: FAILURE OF ENVIRONMENTAL APPRAISAL CONCERNING EXISTING NALA NO. PN-3 AND COMPLIANCE WITH REGULATION 3.1.1(II) OF THE UDCPR

The Respondent's reliance upon the communication issued by the Storm Water Drainage Department (Sewerage Maintenance and Repair Department), Pune Municipal Corporation, is wholly misconceived and, in fact, supports the Appellant's challenge. The said document unequivocally records the existence of Nala No. PN-3 within the project site and acknowledges a proposal for its relocation/diversion. Significantly, the communication itself expressly refers to Regulation 3.1.1(ii) of the Unified Development Control and Promotion Regulations (UDCPR), which permits canalisation of a nala within a property subject to strict conditions, including that the natural alignment, inlet and outlet of the nala shall not be altered and that no obstruction shall

be caused to the natural flow of water. The document further records the necessity of hydraulic studies, maintenance of prescribed width and depth, preservation of flow capacity, open-to-sky drainage characteristics, and other engineering safeguards, thereby acknowledging the hydrological significance of the existing watercourse. However, neither the said communication nor the impugned Environmental Clearance demonstrates any independent environmental appraisal of the consequences arising from interference with the existing nala system, including impacts on natural drainage patterns, flood carrying capacity, downstream hydrology, storm-water conveyance, water quality, cumulative environmental impacts, and compliance with Section 24(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974. The issue before this Hon'ble Tribunal is not whether a municipal department issued a conditional technical opinion, but whether SEIAA, while granting the impugned Environmental Clearance, applied its mind to the environmental implications of a project involving an acknowledged nala/watercourse and examined whether the proposed intervention was consistent with the safeguards embodied in Regulation 3.1.1(ii) of the UDCPR and the mandate of environmental law. A municipal engineering communication cannot retrospectively validate an Environmental Clearance or cure deficiencies in environmental appraisal. On the contrary, the document relied upon by the Respondents constitutes a clear admission that the project involves a pre-existing nala requiring canalisation, hydraulic assessment and regulatory safeguards, thereby reinforcing the Appellant's contention that the matter warranted rigorous environmental scrutiny before the grant of the impugned Environmental Clearance. The Respondents' reliance on the said document is therefore misplaced and serves only to underscore the substantial environmental issues raised in the present Appeal.

H. REPLY TO THE RESPONDENT'S RELIANCE ON THE SEAC-III 215TH MEETING PRESENTATION

The Respondents' reliance upon the presentation made before SEAC-III during its 215th Meeting is legally misconceived and incapable of curing the defects in the environmental appraisal process. A presentation submitted by a Project Proponent merely constitutes material placed before the appraisal authority and cannot be elevated to the status of an independent environmental assessment or a reasoned finding by SEAC or SEIAA. Significantly, the presentation itself acknowledges the existence of drainage features and first-order drainage in

and around the project site and depicts drainage channels within the project influence area. These disclosures, read together with the records of the Storm Water Drainage Department, Pune Municipal Corporation, which acknowledge the existence of Nala No. PN-3 and the proposal concerning its canalisation/relocation, establish that hydrological and drainage-related issues formed a material component of the project. In such circumstances, SEAC and SEIAA were under a statutory obligation to undertake a rigorous and reasoned appraisal of the environmental implications arising from the proposed intervention in the existing drainage system, including impacts on natural drainage patterns, storm-water conveyance, flood carrying capacity, downstream hydrology, aquatic ecology, water quality and compliance with Section 24(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974. Furthermore, Regulation 3.1.1(ii) of the UDCPR permits canalisation of a nala only subject to the condition that its alignment, inlet and outlet are not altered so that the natural flow characteristics are preserved. The documents relied upon by the Respondents do not demonstrate any independent examination by SEAC or SEIAA of the applicability of these safeguards, nor do they disclose any reasoned finding as to whether the project proposal was consistent with such regulatory requirements. The law requires an informed and reasoned environmental decision-making process; it does not permit the statutory authority to mechanically accept the Project Proponent's assertions. Therefore, the mere production of the SEAC presentation neither establishes due application of mind by the appraisal authorities nor validates the impugned Environmental Clearance. On the contrary, the presentation itself demonstrates that material hydrological and drainage concerns were before the authorities and required specific consideration, rendering the absence of any reasoned appraisal on these issues a matter that goes to the root of the legality of the impugned Environmental Clearance.

I. REPLY TO THE RESPONDENT'S RELIANCE ON THE HYDROLOGICAL ASSESSMENT REPORT

The Appellant respectfully submits that the Hydrological Assessment Report contained at Pages 88–138 of respondents I.A., far from supporting the case of the Respondents, in fact discloses serious hydrological, environmental and regulatory concerns which were either ignored or inadequately examined during the environmental appraisal process. A careful reading of the report demonstrates that the project area contains an existing natural drainage system, is situated

within a defined catchment area, is characterized by low-permeability black cotton soil having high runoff potential, and requires substantial modification of the existing drainage regime in order to accommodate projected stormwater flows. These findings strike at the very foundation of the environmental appraisal undertaken for the project.

At the outset, the report expressly recognizes the existence of a natural drainage course/nala/STREAM and identifies a catchment area of approximately 37.74 hectares contributing runoff towards the project area. The report further records that stormwater movement within the catchment is governed by natural topography, watershed characteristics, soil conditions and existing drainage pathways. The preparation of a dedicated hydrological study itself constitutes an acknowledgment that drainage and runoff impacts are environmentally significant issues requiring rigorous examination before grant of Environmental Clearance.

The report further records that the project area predominantly consists of clayey soil/black cotton soil possessing low infiltration capacity and high runoff generation characteristics. The consultant specifically acknowledges that such soil conditions are susceptible to waterlogging, flooding and increased surface runoff during rainfall events. Having recognized these inherent hydrological sensitivities, the report nevertheless fails to assess the full environmental consequences that would arise from large-scale construction activity, increased impervious surfaces, alteration of natural drainage patterns and modification of runoff characteristics after project implementation.

A particularly significant deficiency arises from the fact that the runoff calculations contained in the report are based primarily upon existing land-use conditions. The consultant adopts a runoff coefficient derived from a catchment comprising approximately 20% built-up land, 74% land without scrub and 6% plantation. However, the report does not scientifically evaluate the altered runoff regime that would arise after the proposed development is constructed. As urbanization and construction inevitably increase impervious surface coverage, the resulting runoff coefficients and peak discharge values are likely to be substantially higher than those assumed in the study. Consequently, the hydrological assessment is based upon assumptions that do not adequately reflect post-development conditions and therefore underestimates potential stormwater impacts.

The report proceeds to calculate peak stormwater discharge values ranging from approximately 2.30 m^3/s to 3.21 m^3/s for various return periods and thereafter evaluates whether the existing

natural nala is capable of carrying such flows. Significantly, Pages 128–129 of the report contain an unequivocal admission that the existing natural drainage channel is incapable of accommodating the projected peak discharge. The consultant records that the carrying capacity of the nala at the entry section is only approximately 0.70 m^3/s and at the exit section approximately 2.48 m^3/s, while the estimated peak discharge is approximately 3.0 m^3/s. The report therefore categorically concludes that the "existing nala is not sufficient to handle peak discharge."

This admission is of considerable legal and environmental significance. Once the Project Proponent's own consultant concludes that the existing natural drainage system is inadequate and incapable of safely conveying projected runoff, any proposal involving modification, enlargement, diversion, confinement or replacement of such drainage infrastructure becomes a matter requiring comprehensive environmental scrutiny. Instead of undertaking such scrutiny, however, the report proceeds directly to recommend engineering interventions without evaluating their environmental consequences.

Pages 130–136 of the report recommend construction of a substantially enlarged artificial open channel measuring approximately 2.5 metres in width and 1.2 metres in depth, or alternatively installation of underground Hume pipes ranging up to 2400 mm in diameter. The report ultimately concludes that a 2400 mm diameter Hume pipe or equivalent engineered drainage infrastructure would be necessary to safely convey projected flows. These recommendations constitute a clear acknowledgment that the natural drainage regime presently existing within the project influence area would require significant alteration and artificial regulation in order to facilitate the proposed development.

Despite proposing such substantial intervention, the report fails to assess the impacts of diversion, confinement or modification of the natural drainage system upon downstream hydrology, flood propagation, groundwater recharge, sediment transport, erosion dynamics, ecological connectivity, riparian functions, aquatic habitats and cumulative watershed behaviour. No scientific assessment has been undertaken regarding the consequences of replacing a naturally functioning drainage system with engineered conduits and channels. The report therefore addresses hydraulic conveyance alone while entirely omitting environmental impact assessment of the proposed intervention.

The omission becomes even more serious when viewed in light of the statutory framework governing environmental protection. **Section 24(1)b of the Water (Prevention and Control of Pollution) Act, 1974** reflects the legislative policy of protecting streams and watercourses from activities adversely affecting their integrity, i.e., **entering into stream & obstructs of natural/proper flow of water of stream in a manner leading to substantial aggrevation of pollution**. Likewise, **Sections 3 and 5 of the Environment (Protection) Act, 1986** mandate protection and improvement of environmental quality and require environmental decision-making to be based upon proper assessment of environmental consequences. The Environmental Clearance process under the EIA Notification, 2006 is intended to identify and evaluate environmental impacts before project implementation. In the present case, however, the hydrological report merely proposes engineering solutions without undertaking the corresponding environmental assessment necessary to justify interference with an existing drainage system.

The report is also internally inconsistent. While one portion of the study suggests that pipe diameters in the range of approximately 1.58 metres to 1.79 metres may satisfy calculated discharge requirements, the final design recommendations subsequently conclude that a much larger 2400 mm diameter Hume pipe is necessary. No adequate scientific explanation is provided for the substantial variation between these conclusions. Such inconsistencies raise serious concerns regarding the reliability and robustness of the methodology adopted.

Further, the report itself recognizes uncertainty in future hydrological conditions. Pages 135–137 recommend emergency overflow arrangements, detention structures, retention ponds, vegetative buffers, check dams, energy dissipation measures, protective linings and periodic revision of design parameters to account for climate variability and changing rainfall intensities. These recommendations amount to an acknowledgment that the proposed drainage arrangements may not remain adequate under future rainfall scenarios and that significant safeguards would be necessary to prevent flooding and environmental harm.

It is also noteworthy that the report repeatedly emphasizes that the project area lies within a naturally draining catchment and that runoff is controlled by existing watershed characteristics. However, nowhere does the report evaluate whether preservation of the natural drainage system itself constitutes the environmentally preferable alternative. The study proceeds on the assumption that the drainage system may be engineered, diverted or replaced, without first

examining whether such intervention is environmentally necessary, ecologically sustainable or consistent with principles governing protection of natural drainage networks.

The report, however, conspicuously fails to examine (a) impacts of nala diversion on downstream hydrology; (b) impacts on natural drainage continuity; (c) impacts on flood propagation during extreme rainfall events;(d) impacts on groundwater recharge;(e) impacts on sediment transport and erosion;(f) impacts on aquatic and riparian ecology;(g) cumulative impacts arising from catchment urbanization;(h) consequences of blockage, failure or inadequate maintenance of proposed Hume pipes;(i) impacts under climate change induced extreme rainfall scenarios; and (j) alternative options for preservation of the existing natural drainage system.

The Hon'ble Supreme Court and this Hon'ble Tribunal have consistently recognized the ecological importance of natural drains, watercourses and stormwater channels and have repeatedly held that obstruction, diversion or alteration of natural drainage systems can have serious environmental consequences, including flooding, waterlogging, ecological degradation and disruption of hydrological balance. The precautionary principle requires that where scientific uncertainty exists regarding environmental consequences, decision-makers must err on the side of environmental protection rather than permitting irreversible intervention without adequate assessment.

Viewed cumulatively, the Hydrological Assessment Report establishes: (i) the existence of a natural drainage system within the project influence area; (ii) the inadequacy of the existing nala to accommodate projected stormwater flows; (iii) the necessity for substantial engineering intervention through artificial channels and large-diameter conduits; (iv) the presence of site conditions inherently vulnerable to runoff, flooding and waterlogging; (v) reliance upon assumptions that do not adequately reflect post-development runoff conditions; (vi) internal inconsistencies regarding hydraulic design requirements; and (vii) complete absence of a scientific assessment of the environmental consequences arising from alteration of the natural drainage regime.

Accordingly, the report does not support the Respondents' contention that drainage and hydrological concerns stand adequately addressed. On the contrary, the report reinforces the Appellant's case that material environmental impacts associated with the natural drainage system

remain unassessed and that the Environmental Clearance has been granted without a comprehensive evaluation of hydrological, ecological and downstream consequences. The Hydrological Assessment Report therefore raises substantial environmental concerns warranting interference by this Hon'ble Tribunal and further demonstrates that the impugned Environmental Clearance is unsustainable in law and on facts.

J. NECESSITY OF IMPLEADMENT OF ALL PROJECT PROPONENT ENTITIES FOR COMPLETE, EFFECTIVE AND BINDING ADJUDICATION

The Appellant respectfully submits that the documents forming part of the project record unequivocally establish that the impugned Environmental Clearance is not confined to Respondent No. 7 alone. The Executive Summary of the EIA Report specifically identifies five applicant/project proponent entities, namely Bajaj Finserv Ventures Limited, Bajaj Finserv Limited, Bajaj Finance Limited, Bajaj Allianz General Insurance Company Limited and Bajaj Allianz Life Insurance Company Limited, while the Environmental Clearance itself has been granted in favour of "M/s. Bajaj Finserv Ventures Limited & Others." These disclosures, originating from the Project Proponents' own statutory submissions and the impugned Environmental Clearance, demonstrate that the rights, benefits, obligations, environmental liabilities and compliance responsibilities arising from the project are shared by multiple entities. Any adjudication concerning the legality of the Environmental Clearance, environmental impacts of the project, compliance with statutory conditions, or consequential environmental liabilities would therefore directly affect all such entities. Their presence is necessary to ensure complete, effective and binding adjudication of all issues involved, avoid multiplicity of proceedings, prevent prejudice to affected parties and secure enforceability of any order ultimately passed by this Hon'ble Tribunal. The project proponents cannot selectively rely upon the EIA Report and Environmental Clearance for defending the project while disregarding the express disclosures therein identifying multiple beneficiary entities whose interests are inextricably linked with the impugned approval.

K. PRAYER

In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

a. Reject & Dismiss the allegations contained in I.A. No. 221 of 2026 alleging that the Appeal has been filed with mala fide intent, personal vendetta, commercial motive or for any collateral purpose, as being false, unsubstantiated and unsupported by evidence;

b. Hold that the present Appeal raises substantial questions relating to environment and warrants adjudication on merits in accordance with law;

c. Reject the prayer of Respondent No. 7 seeking dismissal of the Appeal at the threshold and reject the prayer seeking imposition of exemplary costs, penalty or any other punitive action against the Appellant;

d. Direct that the environmental issues raised in the Appeal be adjudicated on the basis of the pleadings, documents, statutory records and applicable environmental laws, uninfluenced by unsubstantiated allegations regarding the Appellant's motives;

e. Costs of this Interlocutory Application against Respondent No. 7 for raising baseless and unsupported allegations against the Appellant; and

f. Pass such further or other order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

L. VERIFICATION

I, Akshay Sunil Jagtap, Age 32, residing at 211,Datta Chowk, Mundhawa,Pune 411036, the Appellant in the above matter, do hereby verify that the contents of the foregoing Reply/Objections to Interlocutory Application No. 221 of 2026 are true and correct to my knowledge and belief, derived from the records of the case and information available with me, and that nothing material has been concealed therefrom.

Verified at Pune, Maharashtra, on this 8TH day of June, 2026.

Akshay Sunil Jagtap

(Appellant-in-Person)

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

APPEAL NO. 529 OF 2025 (WZ)

I.A. No.175 of 2026 (WZ)

I.A. No.221 of 2026 (WZ)

Akshay Sunil Jagtap

...Appellant

Versus

SEIAA Maharashtra & Ors.

...Respondents

NOTARY GOVT. OF INDIA ADV. VIKAS DATTATRAYA KODRE AREA PUNE MAH Reg No 15284/2019 Exp Dt. 03/11/2029

AFFIDAVIT IN SUPPORT OF REPLY / OBJECTIONS TO INTERLOCUTORY APPLICATION NO. 221 OF 2026 FILED BY RESPONDENT NO. 7

I, Akshay Sunil Jagtap, Age: 32, Occupation: Self Employed, Residing at Pune, Maharashtra, the Appellant above named, do hereby solemnly affirm and state as under:

1. I am the Appellant in the present Appeal and as such I am well acquainted with the facts and circumstances of the case and competent to swear this Affidavit.
2. I have filed the accompanying Reply / Objections to Interlocutory Application No. 221 of 2026 filed by Respondent No. 7 and am fully conversant with the contents thereof.
3. I state that the statements made in the accompanying Reply / Objections are true and correct to my personal knowledge and based upon records, documents and information available to me, which I believe to be true.
4. I state that the Reply / Objections have been filed bona fide in the interest of justice and for proper adjudication of the environmental issues arising in the present Appeal.
5. I further state that the annexures relied upon and produced along with the Reply / Objections are true copies of their respective originals or are obtained from official, public or authentic sources.
6. I respectfully submit that the contents of this Affidavit may be read as an integral part of the accompanying Reply / Objections.

VERIFICATION

I, Akshay Sunil Jagtap, the above-named Deponent, do hereby verify that the contents of paragraphs 1 to 6 above are true and correct to my personal knowledge and belief, and that nothing material has been concealed therefrom.

Verified at Pune, Maharashtra on this 8TH day of June, 2026.

DEPONENT

Akshay Sunil Jagtap

NOTARY ADV. VIKAS DATTATRAYA KODRE AREA PUNE MAH Reg.No 15284/2019 Exp. Dt. 03/11/2029 GOVERNMENT OF INDIA

BEFORE ME

Adv. VIKAS D. KODRE
NOTARY GOVT. OF INDIA
S. No. 51/4, Shri Swami Samarth Kunj,
Kirtane Baug, Mundhwa, Pune - 36.

NOTARY ADV. VIKAS DATTATRAYA KODRE AREA PUNE MAH REGN. NO. 15284/2019 EXPIRY DATE 03/11/2029 GOVERNMENT OF INDIA

NOTED AND REGISTERED
AT SERIAL NUMBER 1957/2026

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Item No.5 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

APPEAL NO.529 OF 2025 (WZ)

Akshay Sunil Jagtap ..... **Appellant**

Versus

SEIAA, Maharashtra & Ors. ... **Respondents**

Date of hearing : 19.11.2025

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SUJIT KUMAR BAJPAYEE, EXPERT MEMBER

Appellant : Appellant present in person through VC

Respondents : Mr. Shubham Rathod, Advocate holding for Mr. Rahul Garg, Advocate for R-4/PMC
Mr. R.B. Mahabal, Advocate for R-7/Bajaj Finserv Ventures Ltd.

ORDER

1. The appellant has filed this appeal seeking quashing of the Environmental Clearance (EC) dated 16.07.2025 granted by respondent No.1 – SEIAA, Maharashtra to respondent No.7 – Bajaj Finserv Ventures Ltd for proposed IT/ITES/Commercial Building project, located at Survey Nos.84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C, 84/35/D, 84/36/A, 84/37/A and 84/38/G (Part), CTS No.1215, 1217, 1218, 1234, 1257, 1258, 1268, 1271 (part), of Mundhwa, Taluka Haveli, District Pune, on the ground of misrepresentation, suppression of natural nalla and its mandatory buffer zone encroachment and multiple procedural lapses under the EIA Notification, 2006.

2. Besides above, it is mentioned that the project site is traversed by a natural storm-water drain (naala) that forms part of the Mula-Mutha river

basin drainage network. This naala has been suppressed in the project's EIA and blocked/encroached upon on ground, with no statutory 6 mtrs buffer zone maintained as mandated under the Unified Development Control and Promotion Regulations (UDCPR), 2020.

3. At the very outset, we enquired from the appellant as to where is the EIA report, which shows that there is any such suppression made of naala, he could not show it, nor could he show the area (buffer zone) which is said to have been annexed by the appellant. We direct him to place full facts before this Tribunal along with documentary evidence in support of whatever has been averred in this appeal. The appellant prays for grant of fifteen days' time for the same. But we allow seven days' time to place the material along with the evidence in support thereof on record. We direct the appellant that on the next date, to submit clear-cut grounds on which he is assailing the EC and the documents in support of those grounds shall also be placed on record.

4. Put up this matter for further hearing on admission of this appeal on 11.12.2025.

Dinesh Kumar Singh, JM

Dr. Sujit Kumar Bajpayee, EM

November 19, 2025
APPEAL NO.529 OF 2025 (WZ)
npj

Annexure R-2.

Item No.9 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

APPEAL NO.529 OF 2025 (WZ)

Akshay Sunil Jagtap ..... **Appellant**

Versus

SEIAA, Maharashtra & Ors. ... **Respondents**

Date of hearing : 11.12.2025

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SUJIT KUMAR BAJPAYEE, EXPERT MEMBER

Appellant : Appellant in person present

Respondents : Mr. Aniruddha Kulkarni, Advocate along with Mr. Savyasachi Bharadwaj, Advocate for R-1/SEIAA and R-3/MPCB
Mr. Om Shankar Shrivastava, Advocate for R-2/MoEF&CC
Mr. Rahul Garg, Advocate along with Mr. Shubham Rathod, Advocate for R-4/PMC
Mr. R.B. Mahabal, Advocate for R-7/Bajaj Finserv Ventures Ltd

ORDER

1. As per the directions in our earlier order dated 19.11.2025, the appellant, who has appeared in person through VC, has filed relevant documentary evidence, which is taken on record.

2. Learned counsel Mr. R.B. Mahabal, representing respondent No.7 – Project Proponent, has appeared and intervened prior to passing an order on admission of this appeal, by placing few documentary evidence before us, stating that the appellant before us had earlier filed a case i.e. Appeal No.523 of 2025 before this Tribunal, which was heard on 25.09.2025, a copy of the order passed on that date is provided to us and the said appeal was

later on withdrawn by the appellant on 04.11.2025. A copy of the order passed on that date is also provided to us, which is taken on record.

3. Having drawn our attention to above two orders, it is submitted by learned counsel Mr. R.B. Mahabal that he has filed copies of these orders on record and states that the appellant had sought some work with the Project proponent – respondent No.7 in that case and the same was got settled and later on, because of that reason, withdrawal order was passed by this Tribunal on the request of the appellant on 04.11.2025. The documents placed by learned counsel Mr. Mahabal are taken on record. Further, learned counsel Mr. Mahabal has provided copy of e-mail dated 12.04.2024 sent by the appellant to respondent No.7 and it is stated that when he could not get work with respondent No.7 – Project Proponent, he has brought the present appeal just to pressurize respondent No.7.

4. In this background, we have to go deep into facts of this case. Therefore, we direct the Registry to place this matter for further consideration on 27.01.2026.

Dinesh Kumar Singh, JM

Dr. Sujit Kumar Bajpayee, EM

December 11, 2025
APPEAL NO.529 OF 2025 (WZ)
npj

Annexure P-3 968

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Schedule I of NGT Act.

SCHEDULE I

[*See* sections 14(*1*), 15(*1*), 17(*1*)(*a*), 17(*2*), 19(*4*) (*j*) and 34(*1*)]

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002.

(*2*) The provisions of [1][the Code of Criminal Procedure, 1973 (2 of 1974)], or, in relation to the State of Jammu and Kashmir*, the provisions of any corresponding law in force in that State, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under [2][section 94] of the said Code, or, as the case may be, under the corresponding provisions of the said law.

Explanation.—For the purposes of this section, "place" includes vessel.

24. Prohibition on use of stream or well for disposal of polluting matter, etc.—(*1*) Subject to the provisions of this section,—

(*a*) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any [3][stream or well or sewer or on land]; or

(*b*) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(*2*) A person shall not be guilty of an offence under sub-section (*1*), by reason only of having done or caused to be done any of the following acts, namely:—

(*a*) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(*b*) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(*c*) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(*d*) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(*3*) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (*1*) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.

25. Restrictions on new outlets and new discharges.—[4][(*1*) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

(*a*) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(*b*) bring into use any new or altered outlet for the discharge of sewage; or

(*c*) begin to make any new discharge of sewage:

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988 (53 of 1988), for which no consent was necessary prior to such commencement,

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1. Subs. by Act 44 of 1978, s. 11, for "the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 12-12-1978).
2. Subs. by s. 11, *ibid.*, for "section 98" (w.e.f. 12-12-1978).
3. Subs. by Act 53 of 1988, s. 11, for "stream or well" (w.e.f. 29-9-1988).
4. Subs. by s. 12, *ibid.*, for sub-sections (*1*) and (*2*) (w.e.f. 29-9-1988).

*. *Vide* Notification No. S.O. 3912 (E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

ENVIRONMENT (PROTECTION) ACT, 1986

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THE ENVIRONMENT (PROTECTION) ACT, 1986

No. 29 OF 1986

[23rd May, 1986]

An Act to Provide for the Protection and Improvement of Environment and for Matters Connected therewith.

WHEREAS the decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;

AND WHEREAS it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property;

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement. – (1) This Act may be called the Environment (Protection) Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different areas.

2. Definitions. – In this Act, unless the context otherwise requires, –

(a) "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;

(b) "environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;

(c) "environmental pollution" means the presence in the environment of any environmental pollutant;

(d) "handling", in relation to any substance, means the manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such substance;

(e) "hazardous substance" means any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plant, micro-organism, property or the environment;

(f) "occupier", in relation to any factory or premises, means a person who has, control over the affairs of the factory or the premises and includes, in relation to any substance, the person in possession of the substance;

(g) "prescribed" means prescribed by rules made under this Act.

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[1] It came into force in the whole of India on19th November, 1986 vide Notification No. G.S.R.1198(E) dated 12-11-86 published in the Gazette of India No.525 dated 12-11-86.

CHAPTER II

GENERAL POWERS OF THE CENTRAL GOVERNMENT

3. Power of Central Government to take measures to protect and improve environment. – (1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely: –

(i) co-ordination of actions by the State Governments, officers and other authorities--

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever;

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations, or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

4. Appointment of officers and their powers and functions. – (1) Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may appoint officers with such designation as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub- section (3) of section 3 or of any other authority or officer.

5. Power to give directions. – Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may[1], in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.[2]

Explanation: –For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct–

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

[3][**5A. Appeal to National Green Tribunal.** – Any person aggrieved by any directions issued under section 5, on or after the commencement of the National Green Tribunal Act, 2010 (19 of 2010), may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010), in accordance with the provisions of that Act.]

6. Rules to regulate environmental pollution. – (1) The Central Government may, by notification in the Official Gazette, make rules in respect of all or any of the matters referred to in section 3.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

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[1] The Central Government has delegated the powers vested in it under section 5 of the Act to the State Governments of Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Mizoram, Orissa, Rajasthan, Sikkim and Tamil Nadu subject to the condition that the Central Government may revoke such delegation of Powers in respect of all or any one or more of the State Governments or may itself invoke the provisions of section 5 of the Act, if in the opinion of the Central Government such a course of action is necessary in public interest, (Notification No, S.O. 152 (E) dated 10-2-88 published in Gazette No. 54 of the same date). These Powers have been delegated to the following State Governments also on the same terms: Meghalaya, Punjab and Uttar Pradesh vide Notification No. S.0.389 (E) dated 14-4-88 published in the Gazette No. 205 dated 14-4-88; Maharashtra vide Notification No. S.O. 488(E) dated 17-5-88 published in the Gazette No. 255 dated 17-5-88; Goa and Jammu & Kashmir vide Notification No. S.O. 881 (E) dated 22-9-88; published in the Gazette No. 749 dated 22.9.88 West Bengal Manipur vide Notification N. S.O. 408 (E) dated 6-6-89; published in the Gazette No. 319 dated 6-6-89; Tripura vide Notification No. S.O. 479 (E) dated 25-7-91 published in the Gazette No. 414 dated 25-7-91.

[2] For issuing directions see r. 4 of Environment (Protection) Rules,1986.

[3] Sec. 5A Ins. by Act 19 of 2010 dt.02.06.2010

(a) the standards of quality of air, water or soil for various areas and purposes;[1]

(b) the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas;

(c) the procedures and safeguards for the handling of hazardous substances;[2]

(d) the prohibition and restrictions on the handling of hazardous substances in different areas;[3]

(e) the prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas;[4]

(f) the procedures and safeguards for the prevention of accidents which may cause environmental pollution and for providing for remedial measures for such accidents.[5]

CHAPTER III

PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL POLLUTION

7. Persons carrying on industry operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards. – No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed[6].

8. Persons handling hazardous substances to comply with procedural safeguards. – No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed[7].

9. Furnishing of information to authorities and agencies in certain cases. – (1) Where the discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place at which such discharge occurs or is apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith–

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[1] Seer.3 of Environment (Protection) Rules,1986 and Schedules thereto.

i. Schedule I lists the standards for emission or discharge of environmental pollutants from the industries, processes or operations and their maximum allowable limits of concentration;
ii. Schedule II lists general standards for discharge of effluents and their maximum limits of concentration allowable (Schedule II omitted by G.S.R 801 (E), dated 31.12.1993.)
iii. Schedule III lists ambient air quality standards in respect of noise and its maximum allowable limits; and
iv. Schedule IV lists standards for emission of smoke, vapour etc. from motor vehicles and maximum allowable limits of their emission.
v. Schedule V – furnishing of information to authorities and agencies. Schedule II re-numbered as Schedule V vide G.S.R.422(E), dated19.5.1993.
vi. Schedule VI – inserted vide GSR422(E), dated 19.5.1993 for General Standards for discharge of Environmental Pollutants,
vii. Schedule VII–inserted vide GSR176(E), dated 2.4.1996 for National Ambient Air Quality Standards,

[2] Seer.13 of Environment (Protection) Rules, 1986, and

i. Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008;
ii. Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989; and
iii. Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms, Genetically/Engineered Organisms or Cells Rules,1989

[3] Rule 13 SUPRA

[4] See r. 5 of Environment (Protection) Rules,1986.

[5] See r. 12 of Environment (Protection) Rules and Schedule V (Schedule II renumbered as Schedule V), and relevant provisions of Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, Manufacture, Storage and Import of Hazardous Chemicals Rules and Manufacture, Use, Import Export and Storage of hazardous Micro-organisms, Genetically Engineered Organisms or CellsRules,1989.

[6] See r. 3 of Environment (Protection) Rules, 1986 and Schedule-I.

[7] Rule 13 SUPRA

(a) intimate the fact of such occurrence or apprehension of such occurrence; and

(b) be bound, if called upon, to render all assistance, to such authorities or agencies as may be prescribed[1]

(2) On receipt of information with respect to the fact or apprehension of any occurrence of the nature referred to in sub-section (1), whether through intimation under that sub-section or otherwise, the authorities or agencies referred to in sub-section (1) shall, as early as practicable, cause such remedial measures to be taken as are necessary to prevent or mitigate the environmental pollution.

(3) The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.

10. Powers of entry and inspection. – (1) Subject to the provisions of this section, any person empowered by the Central Government in this behalf[2] shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place: –

(a) for the purpose of performing any of the functions of the Central Government entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.

(2) Every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Central Government under sub-section (1) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.

(3) If any person wilfully delays or obstructs any person empowered by the Central Government under sub-section (1) in the performance of his functions, he shall be guilty of an offence under this Act.

(4) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, or an area in which that Code is not in force, the provisions of any corresponding law in force in that State or area shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provision of the said law.

11. Power to take sample and procedure to be followed in connection therewith. – (1) The Central Government or any officer empowered by it in this behalf[3], shall have power to take, for the purpose of

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[1] For authorities or agencies see r. 12 of Environment (Protection) Rules, 1986 and Schedule-V (Schedule-II re- numbered as Schedule-V).

[2] The Central Govt. has empowered 64 persons listed in the Table of Notification No.S.O.83(E) published in the Gazette of India No. 66 dated 16.2.1987

[3] In exercise of powers conferred under sub-section (i) of section 11 the Central Government has empowered 64 officers listed in the Table vide S.O.84. (E) published in the Gazette No. 66 dated 16-2-87

analysis, samples of air, water, soil or other substance from any factory, premises or other place in such manner as may be prescribed[1].

(2) The result of any analysis of a sample taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3) and (4) are complied with.

(3) Subject to the provisions of sub-section (4), the person taking the sample under sub-section (1) shall: –

(a) serve on the occupier or his agent or person in charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(b) in the presence of the occupier or his agent or person, collect a sample for analysis;

(c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(d) send without delay, the container or the containers to the laboratory established or recognised by the Central Government under section 12.

(4) When a sample is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent or person, a notice under clause (a) of sub-section (3), then: –

(a) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and sealed container or containers of the sample as required under clause (c) of sub-section (3), the marked and sealed container or containers shall be signed by the person taking the samples,

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised under section 12 and such person shall inform the Government Analyst appointed or recognised under section 13 in writing, about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers.

12. Environmental laboratories. –(1) The Central Government[2] may, by notification in the Official Gazette: –

(a) establish one or more environmental laboratories;

(b) recognise one or more laboratories or institutes as environmental laboratories to carry out the functions entrusted to an environmental laboratory under this Act[3].

(2) The Central Government may, by notification in the Official Gazette, make rules specifying:

(a) the functions of the environmental laboratory;[4]

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[1] The Central Govt. has empowered 64 persons listed in the Table of Notification No.S.O.83(E) published in the Gazette of India No. 66 dated 16.2.1987

[2] The Central Government has delegated its powers under clause (b) of sub-section (i) of section 12 and section 13 of the Act to the Central Pollution Control Board vide Notification No. S.O. 145 (E) dated 21-2-91 published in the Gazette No. 128 dated 27-2-91

[3] . list of laboratories/institutes recognised as environmental laboratories: and the persons recognised as Govt. Analysts.

[4] See r. 9 of Environment (Protection) Rules,1986.

(b) the procedure for the submission to the said laboratory of samples of air, water, soil or other substance for analysis or tests, the form of the laboratory report thereon and the fees payable for such report;[1]

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

13. Government Analysts. – The Central Government may by notification in the Official Gazette, appoint or recognise such persons as it thinks fit and having the prescribed qualifications[2] to be Government Analysts for the purpose of analysis of samples of air, water, soil or other substance sent for analysis to any environmental laboratory established or recognised under sub-section (1) of section 12.

14. Reports of Government Analysts. – Any document purporting to be a report signed by a Government analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

15. Penalty for contravention of the provisions of the Act and the rules, orders and directions. (1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

16. Offences by companies. – (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation–For the purposes of this section: –

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm.

17. Offences by Government departments. – (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised

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[1] See r. 8 of Environment (Protection) Rules,1986.

[2] For qualifications of Govt. Analyst see r.10 of Environment (Protection) Rules, 1986.

all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER IV

MISCELLANEOUS

18. Protection of action taken in good faith. – No suit, prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

19. Cognizance of offences. – No court shall take cognizance of any offence under this Act except on a complaint made by: -

(a) the Central Government or any authority or officer authorised in this behalf by that Government[1]; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

20. Information, reports or returns. – The Central Government may, in relation to its function under this Act, from time to time, require any person, officer, State Government or other authority to furnish to it or any prescribed authority or officer any reports, returns, statistics, accounts and other information and such person, officer, State Government or other authority shall be bound to do so.

21. Members, officers and employees of the authority constituted under section 3 to be public servants. – All the members of the authority, constituted, if any, under section 3 and all officers and other employees of such authority when acting or purporting to act in pursuance of any provisions of this Act or the rules made or orders or directions issued thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

22. Bar of jurisdiction. – No civil court shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken or order or direction issued by the Central Government or any other authority or officer in pursuance of any power conferred by or in relation to its or his functions under this Act.

23. Powers to delegate. – Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act [except the powers to constitute an authority under sub-section (3) of section 3 and to make rules under section 25] as it may deem necessary or expedient, to any officer, State Government or other authority.

24. Effect of other laws. – (2) Subject to the provisions of sub-section (2), the provisions of this Act and the rules or orders made there in shall have effect notwithstanding anything inconsistent therewith

---

[1] In exercise of powers conferred under clause (a) of section 19, the Central Government has authorised the officers and authorities listed in the Table of Notification No. S.O. 394 (E) published in the Gazette No. 185 dated 16-4-87, S.O. 237(E) published in the Gazette No. 171 dated 29-3-89 and S.O. 656(E) dated 21-8-89 published in the Gazette No. 519 dated 21-8-89, S.O.624(E), dated 3.9.1996 and G.S.R.587(E), dated 1.9.2006.

contained in any enactment other than this Act.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

25. Power to make rules. – (1) The Central Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: –

(a) the standards in excess of which environmental pollutants shall not be discharged or emitted under section 7[1];

(b) the procedure in accordance with and the safeguards in compliance with which hazardous substances shall be handled or cause to be handled under section 8;[2]

(c) the authorities or agencies to which intimation of the fact of occurrence or apprehension of occurrence of the discharge of any environmental pollutant in excess of the prescribed standards shall be given and to whom all assistance shall be bound to be rendered under sub-section (1) of section 9;[3]

(d) the manner in which samples of air, water, soil or other substance for the purpose of analysis shall be taken under sub-section (1) of section **11**;[4]

(e) the form in which notice of intention to have a sample analysed shall be served under clause (a) of sub section (3) of section **11**;[5]

(f) the functions of the environmental laboratories,[6] the procedure for the submission to such laboratories of samples of air, water, soil and other substances for analysis or test;[7] the form of laboratory report; the fees payable for such report and other matters to enable such laboratories to carry out their functions under sub-section (2) of section **12**;

(g) the qualifications of Government Analyst appointed or recognised for the purpose of analysis of samples of air, water, soil or other substances under section **13**;[8]

(h) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section **19**;[9]

---

1 See Rule 3 of Environment (Protection) Rules, 1986 and Schedule-I.

2 See r.13 of Environment (Protection) Rules, 1986, and
- i. Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008
- ii. Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989; and
- iii. Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms, Genetically- engineered organisms or Cells Rules,1989.

3 For ... or agencies see r.12 of Environment (Protection) Rules, 1986 and Schedule-II.

4 See r. 6 of Environment (Protection) Rules, 1986.

5 See r. 7 of Environment (Protection) Rules,1986.

6 See. r. 9 of Environment (Protection) Rules,1986.

7 For the procedure for submission of samples to laboratories and the form of laboratory report see r. 8 of Environment (Protection) Rules,1986.

8 See r. 10 of Environment (Protection) Rules,1986.

9 See r. 11 of Environment (protection) Rules,1986.

(i) the authority of officer to whom any reports, returns, statistics, accounts and other information shall be furnished under section **20**;

(j) any other matter which is required to be, or may be, prescribed.

26. Rules made under this act to be laid before Parliament. – Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

This Act of Parliament received the assent of the President of India on the 23rd May, 1986: –

CHAPTER - 3
GENERAL LAND DEVELOPMENT REQUIREMENTS.

3.1 REQUIREMENTS OF SITE

3.1.1 Site not Eligible for Construction of Building

No piece of land shall be used as a site for the construction of building,

i) If the Authority considers that the site is insanitary, incapable of being well drained or is dangerous to construct a building on it;

ii) If the entire site is within a distance of 6.0 m. from the edge of water mark of a minor water course (like nallah, canal) and 15.0 m. from the edge of water mark of a major water course (like river) shown on Development Plan / Regional Plan or village / city survey map or otherwise;

Provided that where a minor water course passes through a low lying land without any well-defined banks, the owner of the property may be permitted by the Authority to canalise water course within the same land without changing theoverall alignment and the position of the inlet and outlet of the water course according to cross section as determined by the Authority. In such case, marginal open space shall beas stipulated under these regulation and shall be measured from edge of the trained nallah;

iii) If the site is hilly and having gradient more than 1:5;

iv) If the site is not drained properly or is incapable of being well drained;

v) If the owner of the building has not proposed appropriate measures required to safeguard the construction from constantly getting damp to the satisfaction of the Authority;

vi) In case the building is proposed on any area filled up with carcasses, excreta, filth and offensive matter, then certificate from the Authority to the effect that it is safe from the health and sanitary point of view, to be built upon, is required;

vii) If the use of the site is for the purpose, which in the opinion of the Authority will be a source of annoyance to the health and comfort of the inhabitants of the neighbourhood;

viii) If the proposed occupancy of the building on the site does not conform to the land use proposals in the development plans / Regional Plan or Zoning Regulations;

ix) If the level of the site is less than prescribed datum level depending on topography and drainage aspects;

x) If it doesn't derive access from an authorized street/means of access of adequate width as described in these Regulations;

xi) If it is within the river and blue flood line of the river (prohibitive zone), unless otherwise specified in these regulations;

xii) If the site is within the boundary of Coastal Regulation Zone where CRZ Regulation does not allow development;

xiii) If the site is not developable by virtue of restrictions imposed under any law or guidelines of any Government Department;

xiv) If the entire site is within a distance of 50.0 m. from the mean high flood level of a wetland. The mean shall be calculated as per the provisions of Wetlands (Conservation and Management) Rules, 2017.

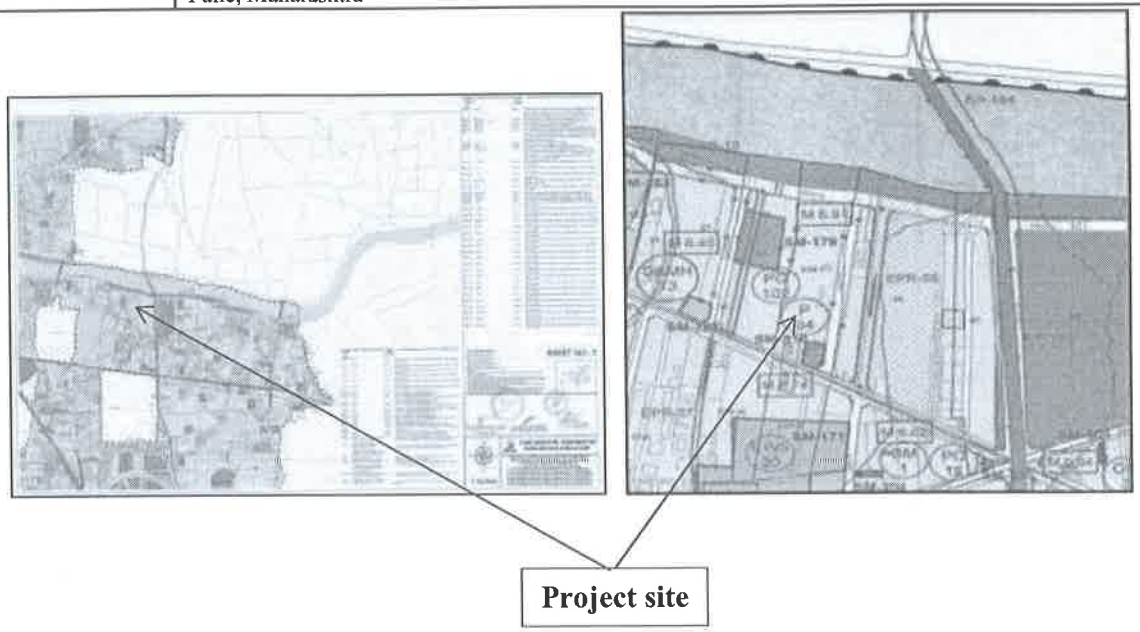


Figure 2.3 Development Plan

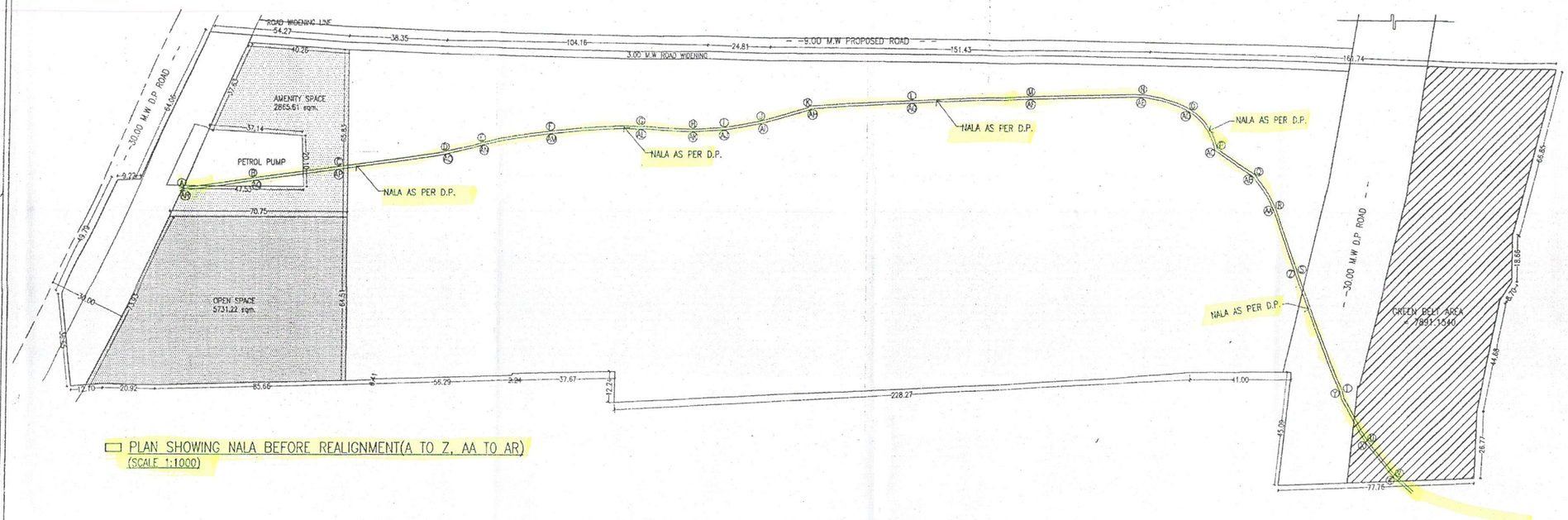
2.3.4 Environmental sensitive places within 15 km radial area from project site

Table 2.2 Environmental Sensitivity

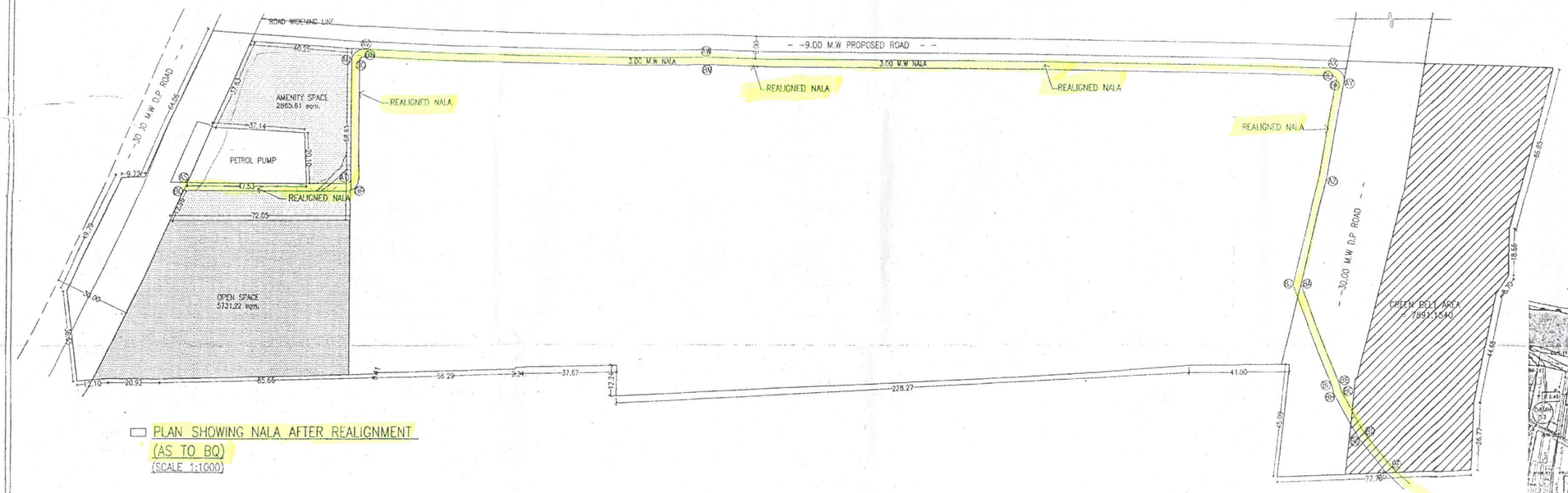
S No	Area	Name / Identity	Aerial Distance (within 15 km of the project site)
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	Not Present	Not Present
2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	Mula Mutha River	0.06 Km
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	Not Present	Not Present
4	Inland, coastal, marine or underground waters	Not Present	Not Present
5	State, National boundaries	Not Present	Not Present
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	The project site does not directly come on any important routes or in immediate vicinity of facilities that are used by tourists for recreational and pilgrimage purposes. The transport infrastructure for the city of Pune is as follows:	
		Pune International Airport	4.64 km
		Pune Railway Stations	4.40 km
		Dhole Patil Farm Bus Stand	0.01 km

Annexure R-B

STAMP OF APPROVAL 01/01

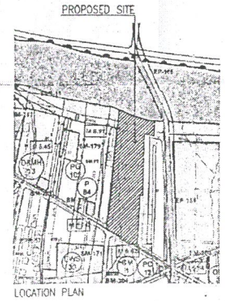


PLAN SHOWING NALA BEFORE REALIGNMENT(A TO Z, AA TO AR)
(SCALE 1:1000)



PLAN SHOWING NALA AFTER REALIGNMENT
(AS TO BQ)
(SCALE 1:1000)

PROPOSED SITE



LOCATION PLAN

PROJECT

PLAN SHOWING REALIGNMENT OF NALA,
S.No. 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 64/34, 84/35/A 84/35/B, 84/35/C, 84/35/D, 84/36/A, 84/37/A& 84/38/G, CTS No.
1215, 1217, 1218, 1234, 1257, 1258, 1268, 1271 (Part),
VILLAGE-MUNDHWA, TAL-PUNE, DIST-PUNE

NAME AND SIGNATURE OF OWNER

1) BAJAJ FINSERV LIMITED
2) BAJAJ FINANCE LIMITED
3) BAJAJ FINSERV VENTURES LIMITED
4) BAJAJ ALLIANZ LIFE INSURANCE COMPANY LIMITED
5) BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED

NAME AND SIGNATURE OF ARCHITECT

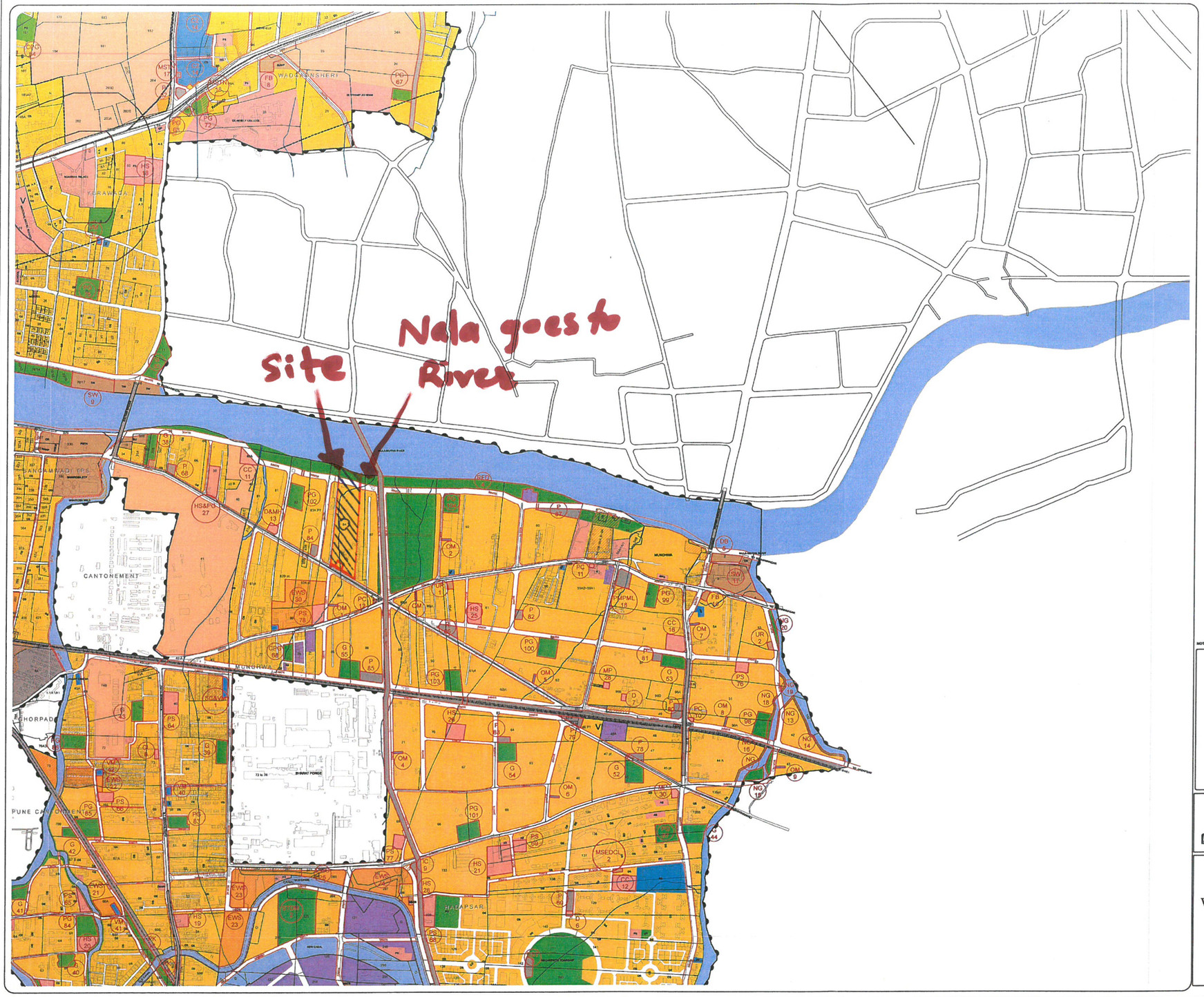
SAMEER VAUMBE
CA/92/14618

VOLUSSIORS
ARCHITECT AND INTERIOR DESIGNERS
10 JANHAVI APPT., BHONDE COLONY, NR. OLD
KARNATAK H. SC., ERANDAVANA PUNE-4 TEL:-41406399

NORTH	SCALE 1:1000	SHEET NO.
N	DEALT BY :- PRIYANKA CHK BY :- TRUPTI DATE 20.05.2024	01/01

FILE NO : RNWD/WOD/RWD/
SUBJECT TO APPROVAL FROM COMPETENT AUTHORITY

Annexure R-9



SHEET NO - 7

NOTE: - METRO ALIGNMENT SHOWN IN THIS MAP IS INDICATIVE AND MAY CHANGE AND MAY CHANGE AS PER THE SITE CONDITION.

PRASHANT M.WAGHMARE
TOWN PLANNING OFFICER
AND CITY ENGINEER
PUNE MUNICIPAL CORPORATION

पुणे म्युनिसिपल कॉर्पोरेशन स्था. १९५०
MUNICIPAL CORPORATION OF THE CITY OF POONA * ESTD. 1950 *

MAHESH PATHAK
MUNICIPAL COMMISSIONER
PUNE MUNICIPAL CORPORATION

PUNE MUNICIPAL CORPORATION
SHIVAJINAGAR,PUNE-411005

N
W E
S

1:10,000

TITLE-

DRAFT DEVELOPMENT PLAN (2007-2027)
FOR OLD PMC LIMIT OF
PUNE MUNICIPAL CORPORATION
PUBLISHED U/S 26(1) OF M.R.T.P.ACT 1966

LEGEND

Nala shown as blue line

LANDUSE

- AGRICULTURE
- LOCAL COMMERCIAL DISTRICT (C-1)
  COMMERCIAL ZONE (C-1)
- COMMERCIAL
  AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC), BAMBOO TRADE AND FLEA MARKET (BT & FM), COMMERCIAL CENTRE (C-2), MARKET (M), OTTA MARKET (OM), SHOPPING CENTRE (SC),VEGETABLE MARKET (VM), FARMER'S MARKET (FMKT), FISH MARKET (FM), SHOPPING CENTRE & VEGETABLE MARKET (SC&VM)
- DEFENCE
- ECONOMICALLY WEAKER SECTION (EWS) / SLUM IMPROVEMENT (SI)
  HOUSING THE DISHOUSED (HDH), PUNE HOUSING AND AREA DEVELOPMENT AUTHORITY (PHADA), PUBLIC HOUSING (PUH), SLUM IMPROVEMENT (SI), ECONOMICALLY WEAKER SECTION (EWS)
- FOREST
- HILL TOP HILL SLOPE (HTHS)
- INDUSTRIAL
  TIMBER INDUSTRY (TI)
- PUBLIC SEMI-PUBLIC ZONE (PSP)
  CHILD CARE CENTRE (CCC), CIVIC & CULTURAL CENTRE (CC), CITY LIBRARY (CL), DISPENSARY (D), DISPENSARY & MATERNITY HOME (D & MH),MATERNITY HOME (MH), FILM CITY (FC), HIGH SCHOOL (HS), KALAGRAM (KGM), MUSEUM AND ART GALLERY (MU & AG), MUNICIPAL KOTHI (MK),HOSPITAL (H), HEALTH CENTRE (HC),OCTROY NAKA (ON) MUNICIPAL PURPOSE (MP), MUNICIPAL HOUSING (MUH), PRIMARY SCHOOL AND CHILDREN PLAY GROUND (PS & CPG), PRIMARY SCHOOL AND HIGH SCHOOL (PS & HS), PUNE METROPOLITAN REGION DEVELOPMENT AUTHORITY (PMRDA), POST OFFICE (PO), PRIMARY SCHOOL (PS), NIGHT SHELTER (NS), OLD AGE HOME (OAH), POLICE CHOWKY (PC), POLICE STATION (PSTN),SPASTIC AND HADICAPPED REHABILITATION CENTRE (S & HRC), SCIENCE CENTRE AND PLANETARIUM (SCP), YOUTH GUIDANCE CENTRE (YGC),CIVIC CULTURAL & WATER TANK (CC&WT), INDUSTRIAL TRAINING INSTITUTE (ITI), HIGH SCHOOL & PLAY GROUND (HS&PG), MUNICIPAL PURPOSE & POLICE CHOWKY (MP&PC), MUNICIPAL PURPOSE & VEGETABLE MARKET (MP&VM), WARD OFFICE (WO)
- RECREATIONAL
  BOAT CLUB (BC), CHILDREN PLAY GROUND (CPG), GARDEN (G), MULTI PURPOSE GROUND (MPG), NALA GARDEN (NG), PLAY GROUND (PG), PARK (PK),STADIUM (STDM), RIVER FRONT DEVELOPMENT (RFD), RECREATIONAL PURPOSE (RP), WATER SPORTS (WS), AQUARIUM (AQRM), AQUA SPORTS COMPLEX (AQSC) GARDEN AND PLAY GROUND (G&PG)
- RESIDENTIAL
- SERVICES
  BURIAL GROUND (BU), BURIAL GROUND FOR ANIMALS (BUA), CREMATION AND BURIAL GROUND (CR & BU), CREMATION (CR), DHOBI GHAT (DB), FIRE BRIGADE (FB), MAHARASHTRA STATE ELECTRICITY DEVELOPMENT CORPORATION LIMITED (MSEDCL), SEWAGE WORKS (SW), TELEPHONE EXCHANGE (TEL), UTILITY RESERVATION (UR), WATER WORKS (WW), , BIO-GAS (BGAS), WASHING HAUD (WH),
- TRAFFIC AND TRANSPORTATION (T AND T)
  BUS TERMINUS (BST), BUS TERMINAL AND TRUCK PARKING (BST & TP), INTER CHANGE (IC), METRO STATION AND DEPOT (MSTN & DT), METRO STATION (MSTN), PARKING (P), PUNE MAHANAGAR PARIVAHAN MAHAMANDAL LIMITED (PMPML), PUNE MAHANAGAR PARIVAHAN MAHAMANDAL LIMITED AND TRUCK PARKING (PMPML & TP), STATE TRANSPORT (ST), TRANSPORTATION HUB (TH), TRANSPORT PARKING (TRP), VEHICLE DEPOT (VD),PARKING & METRO STATION (P&MSTN)
- WATERBODY
- RESTRICTION ZONE
- BUSINESS HUB
- SPECIAL COMMERCIAL ZONE

- AIR FUNNEL
- RAIL OVERBRIDGE/FLYOVERS
- FLYOVERS & BRIDGES
- BRIDGES
- PROPOSED SUBWAY
- CYCLE & JOGGING TRACK
- SUBWAYS
- METRO ALIGNMENT
- METRO INFLUENCE LINE
- HIGH CAPACITY MASS TRANSPORT ROUTE
- NALA
- UNDERGROUND NALA
- CANAL
- DEVELOPMENT PLANNING ROAD
- EXISTING ROAD
- PROPOSED TUNNEL
- RAILWAY LINE
- PLOTS
- EXTENT OF SHEET
- DEVELOPMENT RESTRICTIONS
- CONGESTED BOUNDARY IN SECTOR I
- CITY SURVEY BOUNDARY
- SURVEY BOUNDARY
- FINAL PLOT BOUNDARY
- VILLAGE BOUNDARY
- SLUM
- BUILDINDS IN SECTOR I
- BUILDINGS IN SECTOR II TO VI
- SECTOR BOUNDARY
- CONGESTED AREA IN SECTOR II TO VI
- PMC BOUNDARY

SITES RESERVED FOR PUBLIC PURPOSES ARE SHOWN WITH THE RESPECTIVE LAND USES AND BOUNDED BY A RED VERGE.

NOTE :

METRO ALIGNMENT SHOWN IN THE DRAFT DEVELOPMENT PLAN (2007-2027) IS INDICATIVE AND MAY CHANGE AS PER THE ACTUAL SITE CONDITIONS.

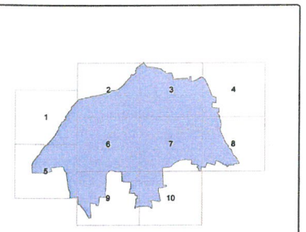
INDEX SHEET

FOR

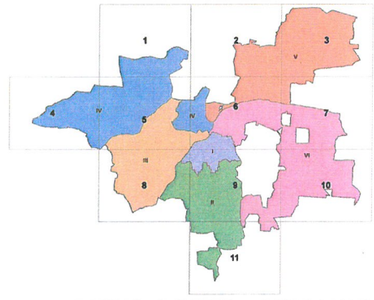
DRAFT DEVELOPMENT PLAN 2007-2027

FOR OLD LIMITS OF PUNE MUNICIPAL CORPORATION

TOTAL 22 SHEETS (INDEX + 10 + 11)



SECTOR I - 10 SHEETS SCALE 1:2000



SECTOR II TO VI - 11 SHEETS SCALE 1:10000

PRASHANT M.WAGHMARE
TOWN PLANNING OFFICER
AND CITY ENGINEER
PUNE MUNICIPAL CORPORATION

MAHESH PATHAK
MUNICIPAL COMMISSIONER
PUNE MUNICIPAL CORPORATION

PUNE MUNICIPAL CORPORATION
SHIVAJINAGAR,PUNE-411005

N W E S

TITLE-

DRAFT DEVELOPMENT PLAN (2007-2027)

FOR OLD PMC LIMIT OF

PUNE MUNICIPAL CORPORATION

PUBLISHED U/S 26(1) OF M.R.T.P. ACT 1966

Figure 3-1 Development Plan

(site Specific)

Annexure R-10

3 m. wide Nala as per D.P.

6m no construction zone or buffer zone,

6m no construction zone / buffer area.

TOWER-3 E-WASTE AT B1

TOWER-3 OWC AT B1

TOWER-3 UGWT AT B2 & B3

TOWER-2 UGWT AT B1, B2

TOWER-2 SUBSTATION ON GROUND

TOWER-3 E-WASTE AT B1

TOWER-2 OWC AT B1

TOWER-1 UGWT AT B1

TOWER-1 E-WASTE AT B1

TOWER-1 OWC AT B1

TRANSFORMER / PROPOSED HSD YARD

3 m wide Nala

OPEN SPACE-1 564.79 SQ. M.

OPEN SPACE-2 563.68 SQ. M.

AMENITY SPACE 2898.70 SQ. M.

OPEN SPACE-3 910.73 SQ. M.

OPEN SPACE-4 3758.19 SQ. M.

GREEN BELT

TOWER T3

TOWER T2

TOWER 01

MAIN LOBBY / TRANSFER LOBBY

SUB-STATION

D.G. SETS

STP

UGWT

9.00 M WIDE DRIVEWAY

6.00 M WIDE DRIVEWAY

EXIT

ENTRY

ENTRY/ EXIT

6m no Construction zone or buffer area.

TOWER-3 SUBSTATION ON GROUND

TOWER-3 DG LOCATION ON GROUND

TOWER-1, 2 & 3 STP LOCATION AT B1 & B2

TOWER-2 DG LOCATION ON GROUND

6 m Buffer zone or no Construction area.

TOWER-1 DG LOCATION ON GROUND

3 m. wide Nala as per D.P.

PROJECT ARCHITECT

Panchshil

PROPOSED OFFICE BUILDING FOR BAJAJ AT MUNDHWA, PUNE

NORTH

N

COMPANY : M/s. Bajaj Finserv Ventures Limited & Others

PROJECT : A.T.S.No - 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C, 84/35/D, 84/36/A, 84/37/A, & 84/38/G(part), CTS No 1215, 1217, 1218, 1234,1257, 1258, 1268, 1271(part), Village Mundhwa, Pune Maharashtra.

DRAWING TITLE : MASTER LAYOUT PLAN

Printed from
THE TIMES OF INDIA

Water enters in several housing societies in Kalyaninagar; Ramwadi underpass shut down

TNN | Jul 25, 2024, 02.24 PM IST

PUNE: Several housing societies in the Kalyaninagar area of Pune were waterlogged on Thursday morning after incessant rains throughout the previous night. Residents from Kalyaninagar reported waking up to knee-deep water and water gushing into parking spaces.

A resident of Lane 6 in Kalyaninagar, Meeta Menon, mentioned that the situation was dangerous around 6 am on Thursday as the rains were non-stop.

Menon told TOI, "We have been experiencing this every year whenever there is a heavy spell. The civic body has failed to address our problems, and now we are facing the wrath. It is difficult even to get out of our houses, not to mention the diseases that come with these floods."

In Kharadi, the crematorium was also waterlogged as water from the Mula-Mutha river had gushed into the area.

The underpass connecting Viman Nagar, Pune Airport, and other areas to Kalyaninagar and Koregaon Park was flooded on Thursday morning, forcing commuters to take alternate routes.

A resident of Mundhwa, Sakshi Sharma, who had an 11:30 am flight, said she had to turn around from the start of the underpass to reach the airport from Wadgaonsheri. "There were a couple of cars that had already broken down, and many other commuters were turning back due to the heavy waterlogging,".

Printed from
THE TIMES OF INDIA

Supreme Court dismisses civil appeal challenging NGT's 2024 order to raze 29 bungalows within Indrayani river flood line

May 12, 2025, 12:41 AM IST

Pune: The Supreme Court (SC) has dismissed a civil appeal challenging the order of the National Green Tribunal's (NGT) Pune bench on July 1, 2024, which had directed the demolition of 29 bungalows within the Indrayani river's blue flood line.

The July order also directed for overall recovery of Rs5 crore in environmental damage compensation (EDC) from the owners of these structures. The EDC share by individual property holders was calculated in proportion to area occupied by each illegal structure.

Now, in an order on May 5, the SC bench of Justice Abhay Oka and Justice Ujjal Bhuyan, while dismissing the civil appeal, said, "There is no reason to entertain the appeal. The appeal is accordingly dismissed."

V Square, the developer of project 'River Villa', where these residential structures are built in the Chikhali area of Pimpri Chinchwad, had approached the apex court citing, among other things, that these properties were sold by way of different registered sale deeds in May and Dec 2021, and that the Pimpri Chinchwad Municipal Corporation (PCMC) cannot levy the EDC on the developer.

"If at all any effort is made by PCMC to recover the compensation from the appellant (developer), appropriate remedy can always be adopted by the appellant," the apex court bench said, while observing that NGT's directives to PCMC were "very specific" and the EDC was calculated by a joint committee and levied on private respondents, who raised the constructions.

Makarand Kulkarni, PCMC's city engineer and head of the building permission department, told TOI, "A demolition plan will be finalised soon. There is no specific deadline mentioned in the SC order, and the earlier six-month deadline set by NGT has passed. We are now preparing for action at the earliest."

Lawyers Arun Longani and Yogendra Kumar, who represented V Square, said, "We will exercise legal remedy as mentioned by SC in its order if PCMC levies an EDC on the developer. On behalf of the property owners, we had approached Bombay High Court regarding demarcation of flood lines in the Indrayani river. The matter is still pending there."

The owners of these residential structures said they have already given a representation to the municipal commissioner, demanding a re-survey of the flood line in Indrayani river. "We spent our hard-earned money to build these houses, and some of us also took loans for it. We are only demanding that the civic body carry out a flood line survey again before initiating demolition action," one of the owners, who did not wish to be named, told TOI.

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991

276

V Square, the developer of project 'River Villa', where these residential structures are built in the Chikhali area of Pimpri Chinchwad, had approached the apex court citing, among other things, that these properties were sold by way of different registered sale deeds in May and Dec 2021, and that the Pimpri Chinchwad Municipal Corporation (PCMC) cannot levy the EDC on the developer.

"If at all any effort is made by PCMC to recover the compensation from the appellant (developer), appropriate remedy can always be adopted by the appellant," the apex court bench said, while observing that NGT's directives to PCMC were "very specific" and the EDC was calculated by a joint committee and levied on private respondents, who raised the constructions.

Makarand Kulkarni, PCMC's city engineer and head of the building permission department, told TOI, "A demolition plan will be finalised soon. There is no specific deadline mentioned in the SC order, and the earlier six-month deadline set by NGT has passed. We are now preparing for action at the earliest."

Lawyers Arun Longani and Yogendra Kumar, who represented V Square, said, "We will exercise legal remedy as mentioned by SC in its order if PCMC levies an EDC on the developer. On behalf of the property owners, we had approached Bombay High Court regarding demarcation of flood lines in the Indrayani river. The matter is still pending there."

The owners of these residential structures said they have already given a representation to the municipal commissioner, demanding a re-survey of the flood line in Indrayani river. "We spent our hard-earned money to build these houses, and some of us also took loans for it. We are only demanding that the civic body carry out a flood line survey again before initiating demolition action," one of the owners, who did not wish to be named, told TOI.

Pune Mirror

FIR Filed Against 8 for Causing Flooding in Hinjewadi IT Park by Altering Natural Water Flow

By PuneMirror Bureau July 5, 2025 0

An FIR has been registered at Hinjewadi Police Station against eight individuals—including four landowners and four commercial tenants—for allegedly altering the natural flow of water bodies in the Rajiv Gandhi IT Park area, resulting in severe waterlogging and traffic chaos.

The complaint, lodged by Harish Angad Mane from the Pune Metropolitan Region Development Authority (PMRDA), alleges that illegal constructions near natural streams in Hinjewadi, Maan, and Marunji blocked and diverted water channels. This led to flood-like conditions during recent rains, disrupting daily commutes and public safety. Social media users mockingly referred to the IT Park as a "Water Park."

The FIR has been registered under relevant sections of the Environmental Protection Act and the Water Pollution Prevention Act.

Hinjewadi Police Station's Senior Inspector Balaji Pandhare confirmed that the landowners had leased their plots to commercial operators, all of whom are now under investigation.

Meanwhile, PMRDA's Enforcement Department has begun demolition drives against unauthorized structures in the affected zones. So far, three buildings between two and eight storeys have been demolished, with ongoing efforts to raze more, including a partially demolished structure. However, one demolition was paused due to a court stay order.

This incident highlights growing concerns over illegal development and weak urban planning in Pune's rapidly expanding tech and residential corridors.

Annexure R-14. (Colly.).

N.C.R.B (एन.सी.आर.बी)

I.I.F.-I (एकीकृत अन्वेषणफॉर्म - १)

FIRST INFORMATION REPORT

(Under Section 173 B.N.S.S)

प्रथम खबर अहवाल

(बी एन एस एस संहिताच्या कलम 173 अन्वये)

1. District (जिल्हा): पिंपरी-चिंचवड P.S. (पोलीस ठाणे): हिंजवडी Year (वर्ष): 2025

FIR No. (प्रथम खबर क्र.): 0391 Date and Time of FIR (प्र. ख. दिनांक आणि वेळ): 04/07/2025 23:57 वाजता

2.

S.No. (अ.क्र.)	Acts (अधिनियम)	Sections (कलम)
1	पर्यावरण (संरक्षण) अधिनियम १९८६	15
2	महाराष्ट्र जमीन महसूल संहिता,१९६६	48(7)
3	भारतीय न्याय संहिता (बी एन एस), 2023	270
4	भारतीय न्याय संहिता (बी एन एस), 2023	3(5)
5	भारतीय न्याय संहिता (बी एन एस), 2023	324
6	भारतीय न्याय संहिता (बी एन एस), 2023	326(a)
7	भारतीय न्याय संहिता (बी एन एस), 2023	326(b)
8	भारतीय न्याय संहिता (बी एन एस), 2023	329(2)
9	भारतीय न्याय संहिता (बी एन एस), 2023	61(2)

3. (a) Occurrence of offence(गुन्ह्याची घटना):

1 Day (दिवस): शुक्रवार Date from (दिनांक पासून): 04/07/2025 Date To (दिनांक पर्यंत): 04/07/2025

Time Period (कालावधी): प्रहर ६ Time From (वेळेपासून): 16:00 तास Time To (वेळेपर्यंत): 17:00 तास

I.I.F.-I (एकीकृत अन वेषणफॉर्म - १)

(b)	Information received at P.S. (पोलीस ठाण्यावर माहिती मिळाल्याचा):	Date (दिनांक): 04/07/2025	Time (वेळ): 23:45 तास
(c)	General Diary Reference (ठाणे दैनंदिनी संदर्भ):	Entry No. (नोंद क्र.): 045	Date and Time (दिनांक आणि वेळ): 04/07/2025 23:44 तास

4. Type of Information (माहितीचा प्रकार): लेखी

5. Place of Occurrence (घटनास्थळ):

1. (a) Direction and distance from P.S. (पोलिस ठाण्या पासून दिशा आणि अंतर): उत्तर, 03 कि.मी. Beat No. (बीट क्र.):

(b) Address (पत्ता): हिंजवडी ता मुळशी जि पुणे , गटनं नाला 152 आणि 263 च्या मध,

(c) In case, outside the limit of this Police Station, then Name of P.S. (पोलीस ठाण्याच्या हद्दी बाहेर असल्यास, पोलीस ठाण्याचे नाव):

District (State) (जिल्हा (राज्य)):

6. Complainant / Informant (तक्रारदार / माहिती देणारा):

(a) Name (नाव): हरिष आंगद माने

(b) Father's/Husband's Name (वडिलांचे/पतीचे नाव):

(c) Date/Year of Birth (जन्मतारीख / वर्ष): 1990 (d) Nationality (राष्ट्रीयत्व):भारत

(e) UID No. (यु.आय.डी. क्र.):

(f) Passport No. (पारपत्र क्र.):

Date of Issue (दिल्याची तारीख): Place of Issue (दिल्याचे ठिकाण):

(g) ID Details (Ration Card, Voter ID Card, Passport, UID No., Driving License, PAN) (ओळखपत्र विवरण (राशन कार्ड ,मतदाता कार्ड ,पासपोर्ट, यूआईडी सं., ड्राइविंग लाइसेंस, पैन कार्ड))

S. No. (अ.क्र.)	ID Type (ओळखपत्राचा प्रकार)	ID Number (ओळखपत्र क्रमांक)

(h) Occupation (व्यवसाय):

(i) Address (पत्ता):

S.No. (अ.क्र.)	Address Type (पत्ता प्रकार)	Address (पत्ता)::
1	वर्तमान पता	गट नं 1426, म्हेत्रेवाडी,, चिखली, पुणे , चिखली, पिंपरी-चिंचवड, महाराष्ट्र, भारत
2	स्थायी पता	गट नं 1426, म्हेत्रेवाडी,, चिखली, पुणे , चिखली, पिंपरी-चिंचवड, महाराष्ट्र, भारत

(j) **Phone number (फोन नं.):** **Mobile (मोबाइल क्र.):** 91-9890550500

7. **Details of known / suspected / unknown accused with full particulars (ज्ञात / संशयित / अज्ञात आरोपींचे संपूर्ण तपशील):**

Accused More Than (अज्ञात आरोपी एका पेक्षा जास्त असतील तर संख्या): 0

S. No. (अ.क्र.)	Name (नाव)	Alias (उर्फनाव)	Relative's Name (नातेवाईकाचे नाव)	Present Address(वर्तमान (पत्ता))
1	शशिकांत साखरे			1. Town/Village (शहर / गाव): पत्ता माहित नाही,Tehsil (तहसील): Police Station (पोलीस ठाणे): District (जिल्हा): पिंपरी-चिंचवड,State (राज्य): महाराष्ट्र,भारत
2	शालिवाहन साखरे			1. Town/Village (शहर / गाव): पत्ता माहित नाही,Tehsil (तहसील): Police Station (पोलीस ठाणे): District (जिल्हा): पिंपरी-चिंचवड,State (राज्य): महाराष्ट्र,भारत
3	विठ्ठल मोनाजी तडकेवार			1. Town/Village (शहर / गाव): पत्ता माहित नाही,Tehsil (तहसील): Police Station (पोलीस ठाणे): District (जिल्हा): पिंपरी-चिंचवड,State (राज्य): महाराष्ट्र,भारत

8. Reasons for delay in reporting by the complainant / informant (तक्रारदार/माहिती देणा-याकडून तक्रार करण्यातील विलंबाची कारणे):

9. Particulars of properties of interest (संबंधीत मालमत्तेचा तपशील):

S. No. (अ.क्र.)	Propertty Category (मालमत्ता वर्ग)	Property Type (मालमत्ता प्रकार)	Description (विवरण)	Value(In Rs/-) मुल्य (रु. मध्ये)

10. Total value of property (In Rs/-) मालमत्तेचे एकूण मुल्य (रु. मध्ये) :

11. Inquest Report / U.D. case No., if any (मरणान्वेषण अहवाल/अकस्मात मृत्यू प्रकरण क्र. जर असल्यास):

S. No. (अ.क्र.)	UIDB Number (यु.आय.डी.बी.)

12. First Information contents (प्रथम खबर हकिगत):

I.I.F.-I (एकीकृत अन वेषणफॉर्म - १)

गुन्हा रजि.नं 391/2025कलम भा.न्या.सं. कलम 270,324,326 (अ), 326 (ब), 329 (ब), 61 (2), 3 (5)तसेच पर्यावरण संरक्षण अधिनियम 1986 कलम 15, जल प्रदुषण आणि प्रतिबंध कायदा 1974 चे कलम 24 (2) (सी), महाराष्ट्र जमीन महसुल संहिता कलम 48 (7)

हरिष आंगद माने वय 35 वर्षे धंदा नोकरी रा. गट नं. 1426, म्हेत्रेवाडी, चिखली, पुणे मो. नं. 9890550500

समक्ष हजर राहुन पुणे महानगर प्रदेश विकास प्राधिकरण, पुणे तर्फे फिर्यादी जबाब देतो की, मी वर नमुद ठिकाणी कुटुंबासह राहणेस असुन मी अनाधिकृत बांधकाम निष्कासन विभागामध्ये कंत्राटी शाखा अभियंता या पदावर जानेवारी 2025 पासुन कार्यरत आहे. अनाधिकृत बांधकाम निर्मुलन व निष्कासन विभागामध्ये माझ्या कार्यक्षेत्रातील अनधिकृत बांधकामावर तसेच असे बांधकाम होणा-या आणि तक्रार प्राप्त झालेल्या अनधिकृत बांधकाम क्षेत्रास वेळोवेळी भेटी देवुन आढळणा-या अनाधिकृत बांधकामाचे अहवाल सादर करणे, ज्यामध्ये नोटीस बजावणे, स्थळ पाहणी पंचनामा करणे ई. कामकाजाची माझ्यावर जबाबदारी मा. तहसीलदार पीएमआरडीए व मा. सह आयुक्त पीएमआरडीए, पुणे यांनी सोपविलेली असुन ओढया नाल्यावर अनाधिकृत बांधकामे करणा-यांवर कायदेशीर कारवाई करणेकरीता मला तहसीलदार तथा सहायक नियंत्रक (प्र) पीएमआरडीए, पुणे यांनी प्राधिकृत केले आहे.

आज दि. 04/07/2025 रोजी 16:00 वा ते 17: 00 दरम्यान मौजे हिंजवडी ता. मुळशी जि. पुणे गट नं. नाला 152 आणि 263 च्या येथे पाहणी केली असता इसम नामे शशिकांत साखरे/श्री शालिवाहन साखरे (जागा मालक) श्री विठ्ठल मोनाजी तडकेवार/ गुरुकृपा बँगल स्टोअर (विकासक) यांनी ओढेनाले यांच्या प्रवाहाची दिशा बदलुन त्याठिकाणी अनाधिकृत बांधकाम केल्याचे दिसुन आले आहे. तसेच सदर बांधकामामुळे तेथील ओढया नाल्याचे पाणी रस्त्यावर येवुन तेथील रहिवाशांच्या घरात पाणी घुसुन त्यांच्या जिवीतास धोका निर्माण होण्याची शक्यता आहे. त्याचप्रमाणे भविष्यात अतिवृष्टी झाल्यास पुराचा धोका निर्माण होण्याची शक्यता नाकारता येत नाही. त्यामुळे जीवीत हानी होण्याची शक्यता आहे.

तरी दि. 04/07/2025 रोजी 16:00 वा ते 17: 00 दरम्यान मौजे हिंजवडी ता. मुळशी जि. पुणे गटनं. नाला 152 आणि 263 च्या मध्ये इसम नामे शशिकांत साखरे/श्री शालिवाहन साखरे (जागा मालक) श्री विठ्ठल मोनाजी तडकेवार/ गुरुकृपा बँगल स्टोअर (विकासक) यांनी आपापसात कट रचुन ओढया नाल्याच्या प्रवाहाची दिशा बदलुन त्याठिकाणी अनाधिकृत बांधकाम करुन लोकांच्या जीवीतास धोका निर्माण केला असल्याने माझी त्यांच्याविरुध्द भा.न्या.सं. कलम 270,324,326 (अ), 326 (ब), 329 (ब), 61 (2), 3 (5)तसेच पर्यावरण संरक्षण अधिनियम 1986 कलम 15, जल प्रदुषण आणि प्रतिबंध कायदा 1974 चे कलम 24 (2) (सी), महाराष्ट्र जमीन महसुल संहिता कलम 48 (7) प्रमाणे सरकारतर्फे कायदेशिर फिर्याद आहे.

हा माझा संगणकावर टंकलिखित केलेला जबाब मी वाचुन पाहिला तो माझे सांगणेप्रमाणे बरोबर आहे.

समक्ष

हा जबाब लिहुन दिला

13. Action taken: Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2.
(केलेली कारवाईः बाब क्र.२ मध्ये नमूद केलेल्या कलमान्वये वरील अहवालावरून अपराध दिसून आल्यामुळे):

(1) Registered the case and took up the investigation (प्रकरण नोंदविले आणि तपासाचे काम हाती घेतले): or (किंवा):

(2) Directed (Name of I.O.) (तपास अधिका-याचे नाव): Rank (हुद्दा): पोलीस निरीक्षक rushikesh krushnat ghadage

No. (क्र.): PI to take up the Investigation (तपास करण्याचे अधिकार दिले) or (किंवा)

(3) Refused investigation due to (ज्या कारणामुळे तपास करण्यास नकार दिला):
or (किंवा)

(4) Transferred to P.S. (गुन्हा दुसरीकडे पाठविला असल्यास त्या पोलीस ठाण्याचे नाव):

District (जिल्हा): on point of jurisdiction (अधिकाराच्या दृष्टिकोनातून).

F.I.R. read over to the complainant / informant, admitted to be correctly recorded and a copy given to the complainant /informant, free of cost. (प्रथम खबर तक्रारदाराला/खबरीला वाचून दाखविली, बरोबर नोंदविली असल्याचे त्याने मान्य केले आणि तक्रारदाराला/खबरीला खबरीची प्रत मोफत दिली)

R.O.A.C. (आर.ओ.ए.सी.)

Signature of Officer in charge, Police Station (ठाणे प्रभारी अधिका-याची स्वाक्षरी)

Name (नाव): Balaji Angadrao Pandhare

Rank (हुद्दा): I (Inspector)

No. (क्र.): PI

14. Signature / Thumb impression of the complainant / informant (तक्रारदाराची/खबर देणा-याची सही/अंगठा)

15. Date and time of dispatch to the court (न्यायालयात पाठवल्याची तारीख व वेळ):

Attachment to item 7 of First Information Report (प्रथम खबरीतील मुद्दा क्र. ७ ला जोडपत्र)

I.I.F.-I (एकीकृत अन्वेषणफॉर्म - १)

Physical features, deformities and other details of the suspect/accused: (If known / seen)
(संशयीत/आरोपीचे (माहित असलेल्या/पाहिलेल्या) शारीरिक वैशिष्ट्ये, व्यंग आणि इतर तपशील)

S. No. (अ.क्र))	Sex (लिंग)	Date / Year Of Birth (जन्म मतारीख वर्ष)	Build (बांधा)	Height (cms) (उंची(से.मी)	Complexion (रंग)	Identification Mark(s) (ओळखीच या खुणा)
1	2	3	4	5	6	7
1	पुरुष			-		चेचक: क्र.
2	पुरुष			-		चेचक: क्र.
3	पुरुष			-		चेचक: क्र.

Deformities / Peculiarities (व्यंग वैशिष्ट्ये)	Teeth (दात)	Hair (केस)	Eye (डोळे)	Habit(s) (सवयी)	Dress Habit (s) (पोषाखाच्या सवयी)
8	9	10	11	12	13

Language/Dialect (भाषा/बोली)	Place of (चे ठिकाण)					Others (इतर)
	Burn Mark (भाजल्याच खुणा)	Leucoderma (कोड)	Mole (तिळ)	Scar (व्रण)	Tattoo (गोदण)	
14	15	16	17	18	19	20

ENGLISH TRANSLATION OF FIR`S REGISTERED IN 2025

FIRST INFORMATION REPORT (FIR)

(Translation of Marathi FIR

1. **Police Station:**Hinjewadi Police Station **District:** Pimpri–Chinchwad
   FIR Number: 0391 / 2025 **Date and Time of FIR:** 04 July 2025 at 23:57 hours

2. **Applicable Laws and Sections:** The offences have been registered under the following laws:
   a. **Environment (Protection) Act, 1986** – Section 15
   b. **Maharashtra Land Revenue Code, 1966** – Section 48(7)
   c. **Bharatiya Nyaya Sanhita, 2023** – Sections:
      - 270
      - 3(5)
      - 324
      - 326(a)
      - 326(b)
      - 329(2)
      - 61(2)

3. **a)Occurrence of offence: Day:** Friday
   Date From: 04/07/2025 **Date To:** 04/07/2025
   Time Period: 6th period (as per police time classification)
   Time From: 16:00 hours **Time To:** 17:00 hours
   Form: **I.I.F.–I (Integrated Investigation Form – 1)**
   Prepared under **N.C.R.B. (National Crime Records Bureau)** format.
   (b) Information received at the Police Station
   Date: 04/07/2025 **Time:** 23:45 hours
   (c) General Diary Reference
   Date and Time: 04/07/2025 at 23:44 hours

4. **Type of Information: written**
5. **Place of Occurrence:** Place of occurrence: Hinjewadi, Taluka Mulshi, District Pune, in the area between **Gat Nos. 152 and 263**, approximately **3 km north of Hinjewadi Police Station.**
6. **Complainant / Informant:**
   Name: **Harish Angad Mane**
   Age: 35 years
   Occupation: Service
   Address: Gat No. 1426, Mehregawadi,
   Chikhali, Pune, Pimpri-Chinchwad, Maharashtra, India
   Mobile Number: 9890550500
7. **Details of known / suspected / unknown accused with full particulars:**

1. **Shashikant Sakhare**
2. **Shalivahan Sakhare**
3. **Vitthal Monaji Tadkevar**

8. Reasons for delay in reporting by the complainant / informant

9. Particulars of properties of interest

10. Total value of property (In Rs/-

11. Inquest Report / U.D. case No., if any

12. First Information content:

Crime Register No. **391/2025** under Sections **270, 324, 326(a), 326(b), 329(b), 61(2), and 3(5)** of the **Bharatiya Nyaya Sanhita, 2023**, along with **Section 15 of the Environment (Protection) Act, 1986, Section 24(2) of the Water (Prevention and Control of Pollution) Act, 1974**, and **Section 48(7) of the Maharashtra Land Revenue Code, 1966.**

Complainant: **Harish Angad Mane**, age 35 years, occupation – service, resident of Gat No. 1426, Mehregawadi, Chikhali, Pune, mobile number 9890550500.

The complainant states that he is presently residing with his family at the above-mentioned address and has been working since **January 2025** in the **unauthorized construction removal and development department** under the **Pune Metropolitan Region Development Authority (PMRDA)** as an **Engineer in the Contract Branch.**

As part of his duties, he is responsible for inspecting unauthorized constructions within the jurisdiction, visiting such sites periodically, preparing inspection reports regarding unauthorized constructions, issuing notices, conducting site inspections and preparing panchanamas. These duties are assigned under the supervision of the **Tahsildar PMRDA and the Deputy Commissioner PMRDA, Pune**, and the complainant has been authorized to initiate legal action against unauthorized construction when violations are found.

On **04/07/2025 between 16:00 and 17:00 hours**, during inspection at **Hinjewadi, Taluka Mulshi, District Pune, in the area between Gat Nos. 152 and 263**, it was observed that **Shashikant Sakhare, Shalivahan Sakhare (landowners), and Vitthal Monaji Tadkevar (developer)** had carried out **unauthorized construction work by changing the direction of the natural flow of a drainage channel (naala).**

Because of the said construction activity, the water from the drainage channel may **overflow onto the road and enter the houses of nearby residents**, thereby creating a **risk to the lives of the residents**. Further, in the event of **heavy rainfall in the future**, there is a possibility of **flooding and serious danger**, which could result in **loss of life and property**.

Therefore, on **04/07/2025 between 16:00 and 17:00 hours**, at **Hinjewadi, Taluka Mulshi, District Pune, between Gat Nos. 152 and 263**, the accused persons namely **Shashikant Sakhare, Shalivahan Sakhare (landowners) and Vitthal Monaji Tadkevar (developer)**, by

illegally altering the direction of the natural drainage channel and carrying out unauthorized construction, have created danger to public safety and the lives of residents.

Hence, a complaint has been lodged against them under Sections **270, 324, 326(a), 326(b), 329(b), 61(2), and 3(5) of the Bharatiya Nyaya Sanhita, 2023**, along with **Section 15 of the Environment (Protection) Act, 1986, Section 24(2) of the Water (Prevention and Control of Pollution) Act, 1974**, and **Section 48(7) of the Maharashtra Land Revenue Code, 1966**, and legal action has been initiated accordingly.

The above statement has been typed on the computer and read over to me, and it is correct as per my statement.

The complainant has signed the statement.

13. Police Action

Based on the above information:

- The offence has been **registered at Hinjewadi Police Station**.
- Investigation has been assigned to **Police Inspector Rushikesh Krushnat Ghadage**.

The FIR was read to the complainant and confirmed to be correctly recorded.

14. Signing Officer

Officer in Charge:
Balaji Angadrao Pandhare
Rank: Police Inspector

Printed from
THE TIMES OF INDIA

Hyacinth, trash blockage causes water from Baby Canal to overflow, flood Manjari locality

Mar 19, 2026, 09.48 AM IST

Pune: Water overflowed from the 'Baby Canal' passing through Manjari around 7.30pm on Tuesday and entered homes in the Gopalpatti vasti, throwing residents into a disarray. Long-standing blockage of the canal's natural flow by garbage and hyacinth has been identified as the reason behind the sudden waterlogging incident, with residents and local corporators now demanding that the civic administration take urgent measures to clean the waterway and prevent such flooding emergencies.

The Baby Canal carries water from the Mundhwa jackwell to rural areas for use, flowing through the Hadapsar and Manjari areas.

On Tuesday, when the irrigation department released water into the canal, it failed to flow ahead smoothly due to blockages and entered at least 25 houses of the nearby locality. As the water began overflowing from the canal, the release was stopped almost immediately.

Officials from the irrigation department said their teams are ascertaining more details of the incident, but prima facie the hyacinth and garbage blockages seem to be the reason. As an immediate measure, the irrigation department and Pune Municipal Corporation (PMC) have taken up a cleaning drive to clear obstacles from the canal, an irrigation official said, adding that the department is preparing a panchanama of the incident.

Multiple residents from Manjari and Hadapsar who TOI spoke to said that two main canals that flow to rural areas through their neighbourhoods have become dumping hotspots. Despite repeated follow-ups, the irrigation department and PMC have not been able to clean these waterways for over two years.

Manjari-Sadesatra Nali corporator Ajit Ghule said Tuesday's incident displays total civic apathy towards cleaning of canals and nullahs, leading to hardships for citizens. "We want PMC to prepare a detailed panchanama of the incident and provide compensation to those who were affected due to overflowing water from the canal. Residents have been facing a lot of problems owing to uncleaned canals."

He further said, "Residents have warned of an agitation if the issues are not resolved."

Officials from PMC's Hadapsar ward office said it is the irrigation department's responsibility to carry out regular maintenance and cleaning of canals. An official said, "The civic administration is ready to offer all necessary support, but the irrigation department should prepare a detailed plan for the upkeep of the Baby Canal to prevent such incidents."

Annexure R-16 (Colly.)

1004

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पुढारी

मुंढवा परिसरात वाहतूक कोंडी

मुंढवा : पुढारी वृत्तसेवा

मुंढवा, केशवनगर, घोरपडी, बी. टी. कवडे रस्ता, रामटेकडी, हडपसर औद्योगीक वसाहत परिसरातील शुक्रवारी दुपारी झालेल्या जारदार अवकाळी पावसामुळे सखल भागात पाणी साचले होते. सायंकाळनंतर ठिकठिकाणी वाहतूक कोंडी झाल्याचे चित्र दिसून आले.

कोरेगाव पार्क-मुंढवा रस्त्यावर पावसाचे पाणी साचल्याने झालेली वाहतूक कोंडी.

परिसरात दुपारी तीनपासून पावसाला सुरुवात झाली. तासाभरामध्ये मुख्य व अंतर्गत रस्ते रस्त्यांवरून पाणी वाहू लागले. यामुळे ठिकठिकाणी वाहतूक कोंडी झाली होती. महापालिकेने अनेक ठिकाणी पावसाळी वाहिन्यांची साफसफाई केली नसल्याने काही ठिकाणी नागरिकांच्या घरांत पाणी शिरले. वीजपुरवठा खंडित झाल्याने नागरिकांची गैरसोय झाली. रस्त्यांवरील ड्रेनेजलाइनचे काही चेंबर तुंबल्याचे चित्र दिसून आले. ठिकठिकाणी असलेल्या भाजी मंडईमध्ये पाणी साचल्याने विक्रेत आणि नागरिकांची तारांबळ उडाली. भाजीपाल्याचे मोठे नुकसान झाल्याचे विक्रेत्यांनी सांगितले.

पाऊस उघडल्यानंतरही रस्त्यांवर पाणी साचल्याने वाहतुकीचा वेग मंदावला होता. वाहनचालकांनी चेंबरवरील कचरा बाजूला केला व पाणी जाण्यास वाट मोकळी करून दिली. काही ठिकाणी रस्ते खोदले आहेत. त्यांची दुरुस्ती केली नसल्याने वाहनचालक आणि नागरिकांना कसरत करावी लागली. मुंढवा-कोरेगाव पार्क रस्त्याचे रुंदीकरण मागील दोन वर्षांपासून संथगतीने सुरू आहे. या रस्त्यावरील पदपथांचे काम अपूर्ण असल्याने रस्त्यावर पाणी साचून राहिल्याने वाहनचालकांची गैरसोय झाली. सायंकाळी पाचनंतर या रस्त्यावर कोंडी झाल्याचे चित्र दिसू आले.

My Pune Edition
May 23, 2026 Page No. 03
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TRUE ENGLISH TRANSLATION OF THE NEWS REPORT

PUDHARI

Traffic Congestion in Mundhwa Area

Mundhwa: Pudhari News Service

Due to the heavy unseasonal rainfall that occurred on Friday afternoon in the areas of Mundhwa, Keshavnagar, Ghorpadi, B.T. Kawade Road, Ramtekdi, and the Hadapsar Industrial Estate, water accumulated in low-lying areas. Subsequently, severe traffic congestion was witnessed at several locations.

The rainfall commenced around 3:00 p.m. Within an hour, water began flowing over the main and internal roads. As a result, traffic jams occurred at various places. Since the Municipal Corporation had not undertaken proper cleaning of storm-water drainage channels at several locations, rainwater entered the houses of residents in some areas. The disruption of electricity supply caused inconvenience to citizens. Several drainage chambers on the roads were also found to be clogged.

On the other hand, waterlogging in vegetable markets at various locations caused inconvenience to vendors as well as citizens, according to vegetable sellers.

Even after the rain subsided, water remained accumulated on the roads, slowing down the movement of traffic. Vehicle drivers themselves removed garbage from drainage chambers to facilitate the flow of water. Roads at certain locations have been damaged and dug up. Since repairs have not been carried out, motorists and residents were compelled to face considerable hardship.

The widening work of the Mundhwa–Koregaon Park Road has been progressing at a slow pace for the last two years. Since the footpath works on this road remain incomplete, water continues to accumulate on the roadway, causing inconvenience to motorists. Consequently, traffic congestion was witnessed on the Mundhwa Road after 5:00 p.m.

(Photo Caption)

► Traffic congestion on the Koregaon Park–Mundhwa Road due to accumulation of rainwater on the road.

My Pune Edition

May 23, 2026 – Page No. 03

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Annexure R-17

1006

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Citizens oppose Bajaj Finserv's tree-cutting plan

Trading ECOLOGY for construction?

Mundhwa project: PMC proposes to hack 190 trees, transplant 68 more

Chaitraly Deshmukh Tajane
chaitraly.deshmukh@punemirror.com
@ThePuneMirror

A proposal linked to Bajaj Finserv Ventures Limited seeking permission to cut 190 trees, transplant 68 others and alter a landscape containing 448 trees in Mundhwa has triggered a storm.

Activists warned that Pune is rapidly dismantling its natural defence systems to make way for relentless expansion by the real estate sector.

The proposal, submitted through Bajaj Finserv representative Mahesh Kunkulol before the Pune Municipal Corporation in March this year, has become the latest flashpoint in a growing battle over the future of eastern Pune's green cover.

Environmentalists argue that the project is not an isolated case but part of a larger pattern in which mature trees, natural drainage corridors and biodiversity-rich zones are being sacrificed in the name of development.

EXCLUSIVE

According to documents placed before PMC's Tree Authority, Bajaj Finserv has sought permissions that will affect 448 trees at the Mundhwa site. The civic body's horticulture department has recommended permission to fell 190 trees, transplant 68 trees and undertake compensatory plantation of 2,004 trees, backed by a security deposit of Rs 25.8 lakh.

However, environmental groups have questioned whether compensatory plantations can ever replace decades-old trees that are helpful in many ways, including flood mitigation, groundwater recharge, carbon absorption and temperature regulation.

"This is not a tree-cutting proposal. It is an ecological transformation proposal," said environmental activist Ameet Singh.

"Every mature tree removed weakens Pune's ability to absorb rainfall, recharge groundwater and withstand extreme heat. Compensatory plantation in Pune is not working at all. The Bajaj Finserv Ventures plans to plant trees in another area of city but it has been strongly objected by a local politician too. We are witnessing a dangerous trend where environmental costs are socialised while development profits remain privatised. Pune is being asked to bear the flooding, pollution and heat, while private entities reap the benefits of intensified construction," he said.

Singh added, "They should first replant such trees and later seek permission to cut the trees they want to. Such reputed companies chopping does under the name of development does not look good."

The controversy comes at a time when eastern Pune is already grappling with recurring flooding, sewage overflow, vanishing open spaces and rapidly rising temperatures.

A growing ecological crisis

The Bajaj Finserv proposal is only one among several projects currently before PMC's Tree Authority. Activists estimate that permissions involving nearly 839 trees are under consideration across eastern Pune, including redevelopment projects, road works and infrastructure schemes.

Among them is the Yerawada grade separator project, where permissions have been recommended for removal and transplantation of dozens of trees. Citizens argue that when viewed individually, such proposals may appear manageable, but cumulatively they represent a significant erosion of Pune's urban ecology.

The concerns are particularly acute in Kharadi and Mundhwa, where natural nullahs are already struggling to cope with sewage inflows and monsoon runoff water.

"Death by a thousand cuts" is how activist Gangotri Chanda describes the situation. "Every redevelopment project arrives with a tree-felling application. Citizens are repeatedly assured that transplantation and compensatory plantations will offset the loss. But where are the survival audits? How many transplanted trees actually survive? How many compensatory plantations exist beyond official files? Pune cannot continue to destroy decades-old trees and expect saplings to immediately perform the same ecological functions."

PuneTimesMirror Civic

GREEN ALERT
To Save Tomorrow's Red Alert

The controversy has also reignited concerns about development activity along natural drainage corridors. Activists have cited civic documents showing permissions for drainage infrastructure works in areas already vulnerable to flooding.

'Gain for construction, loss for citizens'

Environmental experts warn that removing mature trees from such landscapes further weakens the city's resilience against extreme rainfall events.

Sarang Yadwadkar said, "The city is systematically dismantling its own natural flood defence system. Trees, wetlands and nullah corridors that protected Pune for decades are being treated as obstacles to development. Once these ecological buffers disappear, flooding becomes inevitable.

"Citizens will ultimately pay the price for short-term construction gains through flooded homes, damaged infrastructure and worsening environmental degradation. Pune is approaching a point where every tree felled today could translate into a flood hotspot tomorrow."

According to Tanaji Gambhire, mature trees form an essential component of urban flood management. "Trees are not obstacles to development; they are infrastructure. Their roots stabilise soil, absorb excess water, filter pollutants and reduce runoff. Cutting old-growth trees while simultaneously spending crores on flood-control projects is environmentally contradictory. Nature-based solutions and bioremediation should be prioritised before large-scale tree removal is considered."

Experts have repeatedly advocated converting amenity spaces along eastern Pune's nullah corridors into ecological buffers, biodiversity parks and bioremediation zones capable of naturally filtering pollutants and reducing flood risk.

Tree panel under lens

The latest proposals have once again placed PMC's Tree Authority under scrutiny. Citizen groups allege that permissions for removal of trees are increasingly being processed as administrative formalities, rather than subjected to rigorous ecological evaluation.

They have urged the civic body to conduct cumulative environmental impact assessment, instead of examining each proposal in isolation.

Activists have also invoked the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, arguing that the law was enacted to preserve urban green cover—not facilitate its gradual depletion.

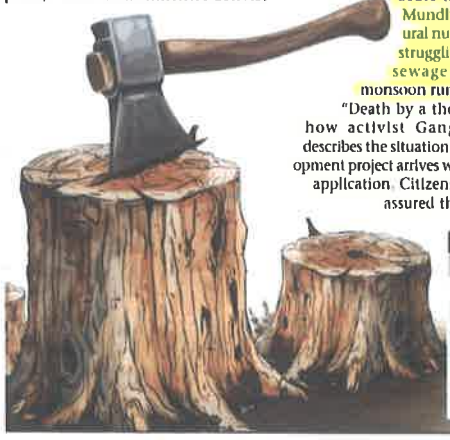
Attempts by Pune to contact Municipal Commissioner Naval Kishore Ram proved futile.

Company's take

Bajaj Finserv said, "We remain firmly committed to its ESG (Environmental, Social and Governance) principles. The tree felling and transplantation activities at the Mundhwa project are being undertaken in accordance with statutory permissions granted by competent authorities, PMC under Act and applicable regulations. These interventions are limited, necessary and carried out only where unavoidable, with mitigation measures integrated into the project design.

"We have planted over six lakh saplings across India in the last five years, supporting ecological restoration and climate resilience. We are also targeting LEED and IGBC Platinum certifications for this project, reflecting standards that go well beyond regulatory compliance.

"As a Founding Member of the Indian Green Building Council (IGBC), sustainability remains embedded in our long-term strategy. Compensatory plantation includes 556 saplings within the project premises and 3,004 saplings at designated sites, as per regulatory requirements."



MUNDHWA PROPOSAL

Particulars	Numbers
Total trees surveyed	448
Proposed for felling	190
Proposed for transplantation	68
Trees retained	190
Compensatory plantation	2,004
Security deposit proposed	₹25.80 lakh

PUNE'S FUTURE AT STAKE

For many citizens, the debate is no longer about one project or one developer. The battle over the Bajaj Finserv proposal has become symbolic of a broader question confronting Pune: Whether the city will preserve its shrinking ecological infrastructure or continue replacing mature trees, natural drainage channels and biodiversity corridors with concrete.

As permissions affecting hundreds of trees move through the approval process, environmental groups are demanding independent site inspections, scientific ecological assessments and public hearings before any final decisions are taken.

"The issue is bigger than Bajaj Finserv, bigger than one project and bigger than one ward," Ameet Singh said. "The question is whether Pune wants a sustainable future or a future of recurring floods, rising temperatures and disappearing green cover. The decisions being taken today will determine what kind of city future generations inherit."

Annexure R-18

1007

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Providing Priority in employment to minimum 80% local persons in all Micro, Small, Medium, Large & Mega Industrial Enterprises.

Government of Maharashtra
Industry, Energy & Labour Department,
Government Resolution No. ELP-2008/C.No.93/Ind-6,
Mantralaya, Mumbai 400 032.
Date: 17th November, 2008.

Read:(1) Government Circular, Industries & Labour Department, No. EMP-4468/3912- Labour -1, dated 5th November, 1968.

(2) Government Resolution, Industries & Labour Department, No. EMP-4470/143727- Labour-1, Dated 25th August, 1970.

(3) Government Resolution, Industries & Labour Department, No. IST-1072/13491/Ind-3, Dated 13th February, 1973.

(4) Government Resolution, Industries, Energy & Labour Department,No.IDL-1005/C.No.119/Ind-8, Dated2nd June, 2005.

(5) Government Resolution, Industries, Energy & Labour Department, No.PSI-1707/ C.No.50/Ind-8, Dated 30th March, 2007.

Preamble:

Government of Maharashtra has a policy in place to ensure that local persons of the State get their due share in gainful employment arising from the growth in industrial activity. Accordingly, all industrial enterprises are expected to ensure that 50% of all supervisory staff, and 80% of all employees (including supervisory staff) are local persons, and also that the Head of the Human Resources / In charge of the recruitment is a person with knowledge of Marathi.

While encouraging that the maximum number of employees on the rolls be local persons, the State Government has borne in mind the provisions of the Constitution of India, which allows for freedom of movement and freedom of employment anywhere in the country. It has been in general observed that 80% of employees in enterprises are local persons. Government now desires to effectively monitor the extent of employment of local persons, and suggest appropriate steps to enhance employment of local persons. Government has taken the following Resolution in this context:

Resolution:

All micro, small, medium, large and mega industrial enterprises shall ensure that 50% supervisory staff and 80% of the total employees (including supervisory staff) will be local persons that the head of Human Resources / recruitment will

be a person with knowledge of Marathi. The procedure for implementation of the ELP policy of the Government is being outlined hereunder:

(A) All registered industrial enterprises (micro, small, medium, large and mega) that have been sanctioned incentives and/or secured concessions from the State Government, shall fulfil the following conditions:

(i) While applying for eligibility certificate under Package Schemes of Incentives, the industrial enterprise shall, along with the application for incentives, submit to the concerned Implementing Agency, an undertaking in the prescribed form ELP-II.

(ii) Subsequent to commencement of production, and thereafter for each financial year, the industrial enterprise shall submit to the concerned District Industries Centre / Joint Director (MMR), an undertaking in the prescribed proforma ELP-I on or before 30th of June of the succeeding financial year.

(iii) The said Industrial enterprise shall maintain necessary records pertaining to each person by way of Domicile Certificate/Caste Certificate/School Leaving Certificate or any such documentary evidence confirming that the employee is a local person. The aforestated record shall be made available to the concerned District Industries Centre / Joint Director (MMR) for verification, as and when called for the submission of ELP-I and ELP-II returns shall form a part of the eligibility conditions for sanction of incentives under Package Schemes of Incentives.

(B) The ELP Policy of the Government shall also be applicable to all such micro, small, medium, large and mega industrial enterprises that have not availed of benefits under Package Scheme of Incentives. Along with submission of Enterprise Memorandum Part I to the concerned District Industries Centre / Joint Director of Industries (MMR), all Micro, Small and Medium Enterprises shall submit returns on employment to local persons in the prescribed form ELP-II. Similarly, while submitting Entrepreneur's Memorandum Part II, all Micro, Small and Medium Enterprises shall submit ELP-I. Every industrial enterprise, upon going into production, shall be required to submit periodic return ELP-I for every completed financial year, and the said return shall be submitted to the concerned DIC/Joint Director of Industries (MMR) by 30th June of the succeeding financial year.

(C) A "Local Person" is defined as one who has completed minimum of 15 years residence in the State of Maharashtra. Such a person will be required to possess a Domicile Certificate / Caste Certificate / School Leaving Certificate / Property tax or any such document / certificate establishing a stay of minimum 15 years in the State of Maharashtra, issued by the relevant Competent Authority.

(D) In case an industrial enterprise is unable to fulfill the conditions stated in the Employment to Local Persons Policy, it shall clearly specify the reasons for its failure to fully implement all the conditions mentioned in the said Policy and submit the same along with the periodic ELP-I return. Such an industrial enterprise shall also submit a time-bound programme for ensuring fulfillment of employment of minimum 50% local persons in supervisory category and 80% local persons in all categories put together.

2) A District Level Committee comprising the following members shall oversee the implementation of the Employment to Local Persons Policy:

(1)	District Collector	:	Chairman
(2)	Asst. Labour Commissioner	:	Member
(3)	District Vocational Education and Training Officer	:	Member
(4)	Asst. Director, Employment and Self-Employment	:	Member
(5)	Regional Officer, MIDC	:	Member
(6)	Two representatives of Industries Associations from the district. (The representatives shall be selected by the Chairman of the Committee. The selection would be for a period of year, and the members shall be eligible for re-nomination)	:	Member
(7)	General Manager, District Industries Centre/Jt. Director (MMR)	:	Member-Secretary

3) The District Level Committee will meet at least once every three months. Whenever possible, the meeting be held immediately before / after Zilla Udyog Mitra Committee meeting. The tasks of the District Level Committee shall be as under:

(i) To review status of Employment to Local Persons (minimum 50% in Supervisory category, and minimum 80% in all categories put together) in every industrial enterprise on the basis of ELP-I and ELP-II returns.

(ii) To discuss the difficulty on the part of an Industrial Enterprise which may be unable to provide employment to local persons as per the ELP policy and suggest ways and means for overcoming the same. The committee to facilitate training of Local Persons in vocational education and Training Institutes where necessary.

(iii) The proceedings of the District Committee shall be submitted to the Development Commissioner (Industries).

4. A State Level Committee comprising of following members is constituted to co-ordinate, monitor and implement the ELP Policy.

(1)	Development Commissioner (Industries)	-	Chairman
(2)	Commissioner, Labour	-	Member

(3)	Director, Vocational Education and Training	-	Member
(4)	Director, Technical Education	-	Member
(5)	Commissioner (Employment & Self Employment)	-	Member
(6)	Chief Executive Officer , MIDC	-	Member
(7)	Jt./Dy. Secretary (Inds. Dept.)	-	Member
(8)	Six representatives of Industries Associations from State. (The representatives will be selected by Chairman of the Committee.This selection would valid for one year and the members shall also eligible for re-nomination)	-	Member
(9)	Jt. Director of Industries (ELP), Directorate of Industries	-	Member Secretary

5. The State Level Committee shall meet at least three times a year. The tasks of the State Level Committee shall be as under:

(i) To review the implementation of the ELP Policy.
(ii) To deliberate on the action taken by the District Level Committees, and to discuss and decide on suggestions / proposals received from the District Level Committees.
(iii) To develop a plan of action for maximizing employment to local persons.

The proceedings of the State Level Committee shall be submitted to the Hon'ble Minister (Industries) through the Secretary (Industries).

6) The Directorate of Industries shall make necessary arrangements to enable industrial enterprises to file ELP-1 & ELP-II returns online.

7) This Government Resolution is made available on website of Government of Maharashtra and the Computer Code is 20081117124133001.

By order and in the name of Governor of Maharashtra.

SD/-

(G. G. Panchbhai)
Jt. Secretary to Government

To
1. Secretary to Hon'ble Governor, Rajbhavan, Malbaar Hill, Mumbai
2. Principal Secretary to Hon'ble Chief Minister, Mantralaya, Mumbai
3. Secretary to Hon'ble Dy. Chief Minister, Mantralaya, Mumbai
4. Private Secretary to Minister / Minister of State (All)
5. Hon'ble Chief Secretary, General Administration Department , Mantralaya, Mumbai
6. Additional Chief Secretary / Principal Secretary / Secretary to Government (All), Mantralaya, Mumbai

7. Principal Secretary, Higher & Technical Education Department, Mantralaya, Mumbai
8. Principal Secretary, Employment & Self Employment Department, Mantralaya, Mumbai
9. Secretary (Labour), Industries, Energy & Labour Department, Mantralaya, Mumbai
10. All Departments of Mantralaya
11. Development Commissioner (Industrics), Directorate of Industries, Mumbai
12. Commissioner, Directorate of Employment & Self Employment, Konkan Bhavan, Navi Mumbai
13. C.E.O., Maharashtra Industrial Development Corporation, Mumbai
14. Labour Commissioner, Maharashtra State, Mumbai
15. Joint Director of Industries, Regional Office, Thane / Nashik / Aurangabad/Pune/ Nagpur/Amravati/ Mumbai Metropolitan Region, Mumbai
16. General Manager, District Industries Centre (All)
17. Director General, Directorate of Information & Public Relation, Mantralaya, Mumbai (2 Copies)
18. Select File(IND-6)

Annexure R-19

Printed from
THE TIMES OF INDIA

Bajaj Finserv to invest 5k cr in Pune; create 40k jobs: DCM

TNN | Jun 4, 2023, 08.58 AM IST

MUMBAI: Bajaj Finserv, a non-banking finance company, will invest Rs 5,000 crore in Pune. A memorandum of understanding was signed between Maharashtra government and Bajaj Finserv at the state guest house Sahyadri on Saturday in the presence of deputy CM Devendra Fadnavis and Sanjiv Bajaj, chairman and managing director, Bajaj Finserv.

Fadnavis said it is the largest investment in recent times in the fintech sector and is expected to generate 40,000 jobs. "This will give a big boost to Pune to become the financial services hub. I assured complete support and speedy process from the state government for the execution (of the project)," the deputy CM added.

Bajaj Finserv has been headquartered in Pune at Vimannagar for the last 16 years. With the Rs 5,000 crore investment, a new campus will come up at Mundhwa in Pune. "We believe growth should not come at the cost of the environment...the project is planned as a sustainable development one that meets the highest global standards of certifications and a net-zero approach," said Bajaj. The MoU was signed by Harshdeep Kamble, industry secretary and S Sreenivasan, chief financial officer, Bajaj Finserv. tnn

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Bajaj Finserv signs MoU with Maharashtra govt to invest Rs 5,000 crore in financial services

TNN | Jun 3, 2023, 09.06 PM IST

MUMBAI: Financial services group Bajaj Finserv, has pledged a substantial investment of Rs 5,000 crore in Maharashtra, which is anticipated to result in the creation of 40,000 job opportunities within the state.

A Memorandum of Understanding (MoU) on the collaboration between Bajaj Finserv and the Government of Maharashtra was signed today. The MoU was signed in the presence of Devendra Fadnavis, deputy chief minister of Maharashtra, and Sanjiv Bajaj, chairman & managing director of Bajaj Finserv. The government has expressed its support for the project and its willingness to provide the necessary assistance for its successful implementation.

According to Bajaj, the company firmly believes in sustainable growth that does not compromise the environment. In alignment with their environmental, social, and governance (ESG) focus, the project will adhere to global sustainability standards, integrating green solutions and adopting a net-zero approach.

The Bajaj Finserv Campus in Pune will become an iconic landmark, housing state-of-the-art workspaces that align with Bajaj Finserv's vision and values, the company said in a statement.

The project's significant impact is reflected in the expected creation of 40,000 jobs, contributing to the continued development of Pune as a financial center. The project is scheduled to commence in 2023, ensuring connectivity and business facilities.

"Maharashtra gets one of the largest financial services' investment in the country.This will give a big boost to Pune to become the financial services hub. I assured complete support and speedy process from Govt for the execution," said Fadnavis in a tweet.

Additionally, the project's positive socio-economic effects will extend beyond Pune, creating new employment opportunities for various stakeholders, both locally and globally.

Annexure R-20.

Item No.4 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

APPEAL NO.523 OF 2025 (WZ)

Akshay Sunil Jagtap

.....Appellant

Versus

SEIAA, Maharashtra & Ors.

....Respondents

Date of hearing: 04.11.2025

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SUJIT KUMAR BAJPAYEE, EXPERT MEMBER

Appellant	:	Mr. Viraj Pawar, Advocate along-with Appellant in-person
Respondents	:	Mr. Shubham Rathod, Advocate and Mr. Rahul Garg, Advocate for R-5/PMC

ORDER

1. Learned counsel for the appellant has made a request to withdraw this appeal.

2. The appeal stands dismissed as withdrawn.

Sheo Kumar Singh, JM

Dr. Sujit Kumar Bajpayee, EM

November 04, 2025
P.Kr

Item No.1 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

ORIGINAL APPLICATION NO.41 OF 2025 (WZ)

Go Green Foundation Trust & Anr. ..... **Applicants**

Versus

Union of India & Ors. ... **Respondents**

Date of hearing : 25.08.2025

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicants : Ms. Pradnya Bheke, Advocate holding for Mr. Nitin Lonkar, Advocate

ORDER

Learned counsel Ms. Pradnya Bheke, holding the brief of learned counsel Mr. Nitin Lonkar, has appeared to represent the applicants and submits that she is not pressing this Original Application on the ground that the project, which has been assailed by the applicants, has been granted Environmental Clearance (EC) and no cause of action survives and hence, she prays that she may be allowed to withdraw this application. Accordingly, we dispose of this Original Application as withdrawn, as prayed for by the learned counsel for the applicants.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 25, 2025
ORIGINAL APPLICATION NO.41 OF 2025 (WZ)
npj

Item No.1 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

ORIGINAL APPLICATION NO.84 OF 2025 (WZ)

Sagar Kantilal Devre

.....Applicant

Versus

State of Maharashtra & Ors.

....Respondents

Date of hearing: 25.07.2025

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Applicant in-person

ORDER

After having heard the argument of the applicant, who has appeared in-person before us through Video Conferencing, for some length of time, he has agreed to withdraw the present Original Application with the prayer that liberty may be granted to him to move appropriate Forum for redressal of his main relief, which has been mentioned in Prayer Clause (A). We allow his prayer and dispose of the present Original Application as withdrawn.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 25, 2025
P.Kr

Item No.7 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[Through Physical Hearing (with Hybrid Option)]

INTERLOCUTORY APPLICATION NO.235 OF 2024 (WZ)
IN
APPEAL NO.31 OF 2024 (WZ)
WITH
APPEAL NO.31 OF 2024 (WZ)

Robert Fernandes ... **Applicant/ Appellant**

Versus

GCZMA & Ors. ... **Respondents**

Date of Hearing : 28.02.2025

CORAM : HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant/ Appellant : Mr. Abhijit Gosavi, Advocate, along with Mr. Shivshankar Swaminathan, Advocate

Respondents : Mr. Shubham Priolkar, Advocate along with Ms. V. Gracias Law Officer for R-1/GCZMA

ORDER

1. Today, the matter (Appeal) is listed for final argument. Learned counsel for the appellant/applicant has apprised us that the appellant has moved review application for review of the order dated 18.01.2024 impugned herein before respondent No.1 – GCZMA. Hence, in this backdrop, he prays that he may be permitted to withdraw this appeal along with I.A.

2. In view of the prayer made by the learned counsel for the appellant, we dismiss Appeal No.31/2024 and I.A. No.235/2024 as withdrawn.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 28, 2025
I.A. No.235/2024(WZ)
npj

Item No: 2 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.177 OF 2024 (WZ)

Shri Balvant Murlidhar Parchure .... **Applicant**

Versus

Sub-Divisional Officer, Dapoli & Ors. ....**Respondents**

Date of Hearing : 29.08.2024

CORAM : HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Applicant-in-person present

ORDER

The applicant, who has appeared in person through VC, after arguing for some time, admits that he has filed this Original Application prematurely and prays that he may be permitted to withdraw this Application. Accordingly, we dismiss this Original Application as withdrawn.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 29, 2024
O.A. No.177 OF 2024 (WZ)
npj

Item No.3 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.127 OF 2024 (WZ)

Kedar Dattatray Gurav — Applicant

Versus

Dr. Mali Bal Rugnalaya & Ors. — Respondents

Date of hearing : 02.07.2024

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Mr. Omkar Wangikar, Advocate

ORDER

1. This Original Application has been filed with the prayer that a direction be issued to respondent No.1 – Dr. Mali Bal Rugnalaya to make compliance of the directions given in letter dated 14.11.2022 issued by respondent No.4 – Maharashtra Pollution Control Board, which is annexed at pages 21 and 22 of the paper-book, wherein following non-compliances were observed, which were required to be removed/complied with by respondent No.1:

> *"(1) Hospital of 15 beds. Occupancy found six (06) beds during the visit.*
>
> *(2) You have not provided Effluent/Sewage Treatment Plant for the waste water generated during Hospital operation, untreated effluent directly discharged into SMKC sewer line.*
>
> *(3) You have failed to submit the Annual Report as per stipulated in the Consent condition.*
>
> *(4) You have failed to give the training to the staff dealing with Bio-medical waste handling."*

2. At this stage, we find that the applicants has filed the present Original Application against two different hospitals jointly, which does not appear to be appropriate because two different notices were issued by

respondent No.4-MPCB to these two hospitals against which separate two cases/original applications ought to have been filed instead of combined one.

3. Considering above, learned counsel for the applicant agreed to withdraw this application, seeking permission to file appropriate applications. We allow the request as prayed for by him and dismiss this Original Application as withdrawn.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 02, 2024
O.A. No.127/2024(WZ)
npj

Item No.1 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.185/2024(WZ)

Lalit Bahale

.....Applicant

Versus

Union of India & Ors.

....Respondents

Date of hearing: 23.09.2024

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Mr. Mohit Anil Bhat, Advocate

ORDER

1. Heard the argument of learned counsel Mr. Mohit Anil Bhat representing applicant, who has filed the present Original Application with the prayer that respondent No.2- MPCB be directed to initiate legal action against the respondent No.4- M/s. Global Eco-Save Systems through its Authorised Signatory and respondent No.5-Atul Environment Services through its Authorised Signatory, which are the operators working under the Bio-Medical Waste Rules, 2016. But he has failed to disclose as to under which corporation, these operators are working as to whether under respondent No.6- Amravati Municipal Corporation or respondent No.7- Akola Municipal Corporation.

2. Besides we find that he has sought relief against two different entities, which are located in two different Districts. Hence, we are of the view that one Original Application cannot be filed for this as that would require separate Original Application to be filed seeking separate relief.

3. We also fail to understand as to why the full facts are not placed before us in the present Original Application before initiating proceedings i.e. the date of setting up the plant, for which the Consent to Establish must have been obtained and thereafter only, Consent to Operate would have been taken. He is directed to provide all the details of Consent to Establish and Consent to Operate in tabular form and why the EC is required in the present case under the amended Notification dated 17.04.2015 issued by the Ministry of Environment and Forest, New Delhi, which is annexed at page no.16 of the paper book, wherein, in the Schedule, after item 7(d), new item 7 (da) is added, which makes it clear that Bio-Medical Waste Treatment Facilities projects would be requiring the EC. In our estimation, the said EC would be required only when the existing project is modernized or expanded. Therefore, applicant has to make it clear as to what expansion is being done, which makes it essential for the prior EC to be obtained for the Project Proponent.

4. Since the learned counsel for applicant is praying before us to allow him to withdraw the present Original Application to file fresh, we allow his prayer and dispose of this application as withdrawn with liberty as prayed for, subject to the provisions of limitation.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 23, 2024
Original Application No.185/2024(WZ)
P.Kr

Item No.3

(Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[Through Physical Hearing (with Hybrid Option)]

APPEAL NO.163 OF 2024 (WZ)

Mahuva Bandhara Khetivadi
Paryavaran Bachav Samiti & Ors. ... **Appellants**

Versus

M/s Nirma Cement Ltd. & Ors. ... **Respondents**

Date of Hearing : 19.11.2024

CORAM : HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Appellants : Mr. Asim Sarode, Advocate

ORDER

1. By filing this appeal, the appellants have assailed three Environmental Clearances (ECs) jointly, all dated 16.09.2024, granted by respondent No.3 – MoEF&CC in favour of respondent No. 1 – M/s Nirma Cement Ltd., which is not appropriate and permissible.

2. We have considered the defects raised by the Registry in this appeal. Learned counsel submits that he is ready to remove those defects and assail three ECs separately by way of an amendment. We are of the view that there is no possibility of allowing such kind of amendment, but the appellants are granted liberty to file three separate appeals, challenging three ECs, to which the learned counsel for the appellants has agreed and prayed that he may be allowed to withdraw this appeal with liberty to file three separate appeals, by further stating that as the present appeal has been filed within time i.e. 30 days from the date of issuance of the ECs, the prescribed period of limitation, which may exceed beyond 30 days while filing three separate appeals, may be taken into consideration and the three separate appeals,

which will be filed by the appellants challenging three ECs, may be treated to have been filed within the prescribed period of limitation. We allow this request.

3. The appeal is disposed of as withdrawn with liberty as prayed for.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 19, 2024
APPEAL NO.163/2024 (WZ)
npj

Item No.2 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCII, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

INTERLOCUTORY APPLICATION NO.205 OF 2025 (WZ)
IN
ORIGINAL APPLICATION NO.77 OF 2025 (WZ)

Hasmukhbhai Bahecharbhai Parmar .... **Applicant**

Versus

Bharuch District Collector & Ors. .... **Respondents**

Date of hearing : 14.07.2025

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Applicant in person present through VC

ORDER

1. Heard the applicant, who has appeared in person through VC.

2. The applicant has sought multiple reliefs in this Original Application, which are not consequential, having different causes of action, which are not maintainable in one Original Application. Therefore, at this stage, the applicant has agreed to withdraw this Original Application along with the delay condonation application (I.A. No.205/2025) and to file fresh one and subject to the permission granted by this Tribunal, he has prayed that he be allowed to withdraw the present I.A. as well as Original Application.

3. We allow the applicant to withdraw I.A. No.205/2025 and the Original Application. Accordingly, the delay condonation (I.A. No.205/2025) is rejected as withdrawn and consequently, Original Application is dismissed as withdrawn, with liberty to the applicant to file

separate Original Applications on different causes of action, subject to limitation.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

July 14, 2025
I.A. No.205/2025(WZ)
npj

वाचले - १) अर्जदार श्री अक्षय सुमंत देठे यांचा दि. ०७/०४/२०२५ चा तक्रार अर्ज
२) ई टी एस मोजणी अहवाल दि. ०८/०५/२०२५
३) या कार्यालयाकडील सुनावणी नोटिस क्र. गौख/कावि/२३२/२०२५ दि. ३०/०५/२०२५
४) महाराष्ट्र जमिन महसुल अधिनियम १९६६ चेकलम ४८ (७) व (८)
५) गौणखनिज उत्खनन (विकास व विनियम) नियम २०१३
६) गौणखनिज उत्खनन (विकास व विनियम) नियम २०१३ मधील सुधारणाबाबतचे महाराष्ट्र शासन राजपत्र दि. ११/०५/२०१५
७) महसूल व वनविभाग यांचेकडील शासन परिपत्रक क्र. गौखनि १०/०३१६/प्र.क्र.२६९ख दि १४/०६/२०१७
८) महसूल व वनविभाग यांचेकडील शासन परिपत्रक क्र. गौखनि/१०/१०१२/प्र.क्र./६०३ख दि. ०१/११/२०२१
९) महसूल व वनविभाग यांचेकडील शासन परिपत्रक क्र.गौखनि/१०/११२१/प्र.क्र.२९२/ख-२ दि. ०९/०५/२०२३
१०) मा. जिल्हाधिकारी कार्यालय पुणे (खनिकर्म शाखा) यांचेकडील परिपत्रक क्र. खनिकर्म/कावि/ २०६/२०२५ दि. १७/०१/२०२५

तहसिलदार कार्यालय, पुणेशहर
९३१ शुक्रवार पेठ पुणे
जा.क्र. गौख/एसआर/99 /२०२५
दिनांक -०३/ ११ /२०२५

विषय :- अनधिकृतगौण खनिज उत्खननाबाबत
मौजे मुंढवा ता. पुणे शहर येथील सर्वे नं. ५२/१पै, ५४/१/२६ पै, ५४/१/२७पै, ५४/१/२९ पै सि टी सर्वे नं. १९३८, १९३३, १९३४, १९३६ पै मे. स्पेशिअलिटी लँडमार्क प्रा. लि. तर्फे श्री शैलेश अगरवाल यांनी येथे अनधिकृत गौणखनिज उत्खनन करून अवैध वाहतूक केलेबाबत

आदेश

मौजे मुंढवा ता. पुणे शहर येथील स नं. ५२/१पै, ५४/१/२६ पै, ५४/१/२७पै, ५४/१/२९ पै सि टी सर्वे नं. १९३८, १९३३, १९३४, १९३६ पै या मिळकती यांसी क्षेत्र २७८५० चौ. मी मध्ये मे. स्पेशिअलिटी लँडमार्क प्रा. लि. तर्फे श्री शैलेश अगरवाल यांनी मोठया प्रमाणात अनाधिकृत गौणखनिज उत्खनन करून इतरत्र प्रकल्प क्षेत्राबाहेर अवैध वाहतूक केलेबाबत वाचले क्र. १ नुसार या कार्यालयास तक्रार प्राप्त झालेली आहे.

त्यानुसार दि. ०२/०५/२०२५ नुसार या कार्यलयाकडून ग्राम महसूल अधिकारी, मुंढवा व ईटीएस मोजणी धारक श्री बी. के पांनमद यांना सदर प्रकरणामध्ये ईटीएस मोजणी करणेकामी पत्र देणेत आलेले आहे.

त्यानुसार वाचले क्र. २ नुसार सदर उत्खनन केलेल्या मिळकतीची ईटीएस मोजणी करणेत आलेली असून, त्याचा अहवाल या कार्यालयास प्राप्त झालेला आहे. सदर अहवालाचे अवलोकन केले असता, जाब देणार यांनी सदर मालमत्तेमध्ये एकूण २२४४२.३६७ ब्रास गौणखनिज उत्खनन केले असून ६४२२.००८ ब्रास गौणखनिज हे सदर प्रकल्प क्षेत्रात साठा व फिलिंग करीता वापर केलेचे निष्पन्न झालेले आहे.

सदर ईटीएस मोजणी अहवालाच्या अनुषंगाने वाचले क्र. ३ नुसार वादी/तक्रारदार व प्रतिवादी/जाब देणार यांना या कार्यालयामार्फत नोटीस देवून नैसर्गिक न्यायाच्या दृष्टीकोनातून म्हणणे सादर करणेसाठी दिनांक १२/०६/२०२५, -१७/०६/२०२५, २७/०६/२०२५, ३०/०६/२०२५, १०/०७/२०२५, २९/०७/२०२५ रोजी संधी देणेत आली होती.

प्रस्तुत प्रकरणी सुनावणीस वादी / तक्रारदार श्री अक्षय देठे व प्रतिवादी /जाब देणार यांचे तर्फे श्री अनिकेत गुप्ता हे हजर राहिले व युक्तिवाद सादर केलेला आहे. सदर प्रकरणी दि. १२/०६/२०२५ रोजीच्या सुनावणीस वादी व प्रतिवादी हजर व लेखी म्हणणे सादर केले. प्रतिवादी यांचे लेखी म्हणणेनुसार, शासन निर्णय दि. ११/०५/२०२१ नुसार उक्त मिळकतीमध्ये खोदाई करताना निघालेला माल त्याच मिळकतीमध्ये वापरलेला असून शासन निर्णयाचे पालन केलेले आहे. तसेच दि. ०९/०५/२०२३ रोजीच्या शासन परिपत्रकामधील तरतुदीचा उल्लेख केलेला आहे. शासन निर्णयानुसार १ हेक्टर पेक्षा जास्त व ५ हेक्टर पेक्षा कमी उत्खनन होणा-या गौण खनिजाच्या २५ % गौण खनिजावर परवानगी घेणेची आवश्यकता आहे. तरीही शासन निर्णयामध्ये नमूद केलेल्या क्षेत्रापेक्षा जास्त क्षेत्राची परवानगी घेतलेली आहे. तसेच उत्खनन करणेकामी घेतलेल्या परवानगी सादर केलेल्या आहेत.

प्रतिवादी यांनी १. मा. उपविभागीय अधिकारी उपविभाग पुणे या कार्यालयाकडून दि. ११/१२/२०२३ रोजी २००० ब्रास, २. दि. ०९/०२/२०२४ रोजी २००० ब्रास, ३. दि. १८/०६/२०२४ रोजी २००० ब्रास ४. दि. १७/०६/२०२४ रोजी २००० ब्रास ५. दि. २५/१०/२०२४ रोजी २००० ब्रास करीता परवाना प्राप्त केला आहे. मा. उपविभागीय अधिकारी उपविभाग पुणे या कार्यालयाकडून असे एकूण १०००० ब्रास करीताचा तात्पुरता गौणखनिज परवाना प्राप्त केलेला आहे. सदर परवान्याच्या प्रती दाखल केलेल्या आहेत.

वादी यांनी त्यांचे लेखी म्हणणे अर्जामध्ये मा. उच्च न्यायालय यांचेकडील सिव्हील अपिल रिटपिटीशन १०४४९/२०२३ ए आय जी पी डेव्हलपर्स (पुणे) प्रा. लि. विरुध्द महाराष्ट्र शासन चे आदेशाची प्रत दाखल केलेली आहे. तसेच एनवारमेंट प्रमाणपत्र क्र. SIA/MH/INFRA२/४२४११८/२०२३ दि. २६/०९/२०२३ सादर केलेले आहे. सदरच्या प्रमाणपत्रानुसार प्रतिवादी यांनी ९२४०० घनमीटर (३२६४५ ब्रास) उत्खनन करणार असल्याचे नमूद करणेत आले आहे. त्यापैकी उर्वरीत गौणखनिज ६०४६१ घनमीटर (२१३६१ ब्रास) इतके गौणखनिज स्टोन क्रशरला वाहतूक करणार असल्याचे नमूद करणेत आलेले आहे.

वाचले क्र. २ अन्वये दि. ०८/०५/२०२५ रोजी केलेल्या ईटीएस मोजणी अहवाल या कार्यालयास प्राप्त झालेला आहे. त्यानुसार सदर प्रकल्प क्षेत्रातून एकूण २२४४२.३६७ ब्रास गौणखनिज उत्खनन केले आहे. तसेच ६४२२.००८ ब्रास गौणखनिज हे सदर प्रकल्प क्षेत्रात साठा व फिलिंग करीता वापर केलेचे नमूद आहे.

पुढील सुनावणी दि. १७/०६/२०२५ रोजी वादी व प्रतिवादी तर्फे ॲड. रत्न भिंगारदिवे उपस्थित होते. वादी यांनी त्यांचे लेखी म्हणणे सादर केले. त्यामध्ये दि. ०८/०५/२०२५ रोजी झालेले ईटीएस मोजणी अहवालानुसार सदर प्रकल्प क्षेत्रातून एकूण २२४४२.३६७ ब्रास गौणखनिज उत्खनन केले, त्यापैकी ६४२२.३६७ ब्रास गौणखनिज हे त्याच प्रकल्प क्षेत्रात साठा व फिलिंग करीता वापर केले आहे. तसेच प्रतिवादी यांनी एकूण १०००० ब्रास करीताचे तात्पुरता गौण खनिज उत्खनन व वाहतूक परवाना प्राप्त करून, सदर गौणखनिज वाहतूक केले आहे. उर्वरीत ६०२०.३५९ ब्रास गौण खनिज हे विनापरवाना उत्खनन करून प्रकल्प क्षेत्राबाहेर वाहतूक झालेचे ईटीएस मोजणीनुसार स्पष्ट होत असल्याने प्रतिवादी यांनी ६०२०.३५९ ब्रास शासनाचे रक्कम रुपये ३६१२२१५.४०/- स्वामित्वधन बुडविलेले आहे. प्रतिवादी यांचेवर महसूल व वनविभाग यांचेकडील शासन परिपत्रक क्र. गौखनि१०/०३१६/प्र.क्र.२६९ ख दि. १४/०६/२०१७ नुसार ५ पट शास्ती नुसार रक्कम रुपये ३१९०७९०२.७०/- असे एकूण रक्कम रुपये ३५५२०११८/- ची कार्यवाही करणेबाबत लेखी म्हणणे अर्जात विनंती केली आहे.

पुढील सुनावणी दि. १०/०७/२०२५ रोजी वादी व प्रतिवादी तर्फे ॲड. रत्न भिंगारदिवे उपस्थित होते. प्रतिवादी यांनी त्यांचे लेखी म्हणणे सादर केले. प्रतिवादी यांनी लेखी म्हणणे अर्जा मध्ये उत्खनन करणेकामी १०००० ब्रास रितसर परवानगी घेतलेली आहे. उर्वरीत माल हा त्याच ठिकाणी लेबर कॅम्प बनविणेसाठी, साईट ऑफिस तसेच वाहनांना जाणे येणेकरीता ९०० मीटर रस्ता तयार करणेकामी भराव टाकणेसाठी वापरलेला आहे. तसेच वास्तुविशारद यांचे दि. १/११/२०२३ रोजीचे प्रमाणपत्र सोबत जोडलेले आहे.

अंतिम सुनावणी दि. २९/०७/२०२५ रोजी वादी व प्रतिवादी उपस्थित होते. वादी यांनी त्यांचे लेखी म्हणणे सादर केले. वादी यांनी लेखी म्हणणे अर्जामध्ये ६०२०.३५९ ब्रास गौण खनिज हे प्रकल्पक्षेत्रात साठा न करता त्याचे विनापरवाना उत्खनन करून प्रकल्प क्षेत्राबाहेर वाहतूक केलेने दंडात्मक कार्यवाही करणेची मागणी केलेली आहे. दि. १०/०७/२०२५ रोजीच्या प्रतिवादी यांचे म्हणणे कशाप्रकारे चुकीचे असलेबाबतचा खुलासा सादर केलेला आहे. दि. ०९/०५/२०२३ रोजीच्या शासन परिपत्रकातील अ. क्र. २ नुसार "विकसकाच्या उत्खनन क्षेत्रानुसार एकूण उत्खनन होणा-या गौणखनिजापैकी २५ टक्के गौण खनिजावर स्वामित्वधन आकारणेबाबत नमूद केलेले आहे. त्यानुसार विकसकाने वाहतूक करावयाच्या गौण खनिजाचे स्वामित्वधन भरल्यानंतर वाहतूकीसाठी आवश्यक वाहतूक परवाना (TP) "mahakhanij" या पोर्टल मार्फत घेणे बंधनकारक राहिल आणि एखादया विकसकास उपरोक्त नमूद परिमाणापेक्षा जादाचे गौण खनिजाची इतर ठिकाणी वाहतूक करावयाची असल्यास अशा गौण खनिजाचे स्वामित्वधन भरून "mahakhanij" या पोर्टल मार्फत वाहतूक परवाना (TP) घेणे बंधनकारक राहिल. " हो बाब वादी यांनी लेखी सोबत तोंडी युक्तीवादान्वये स्पष्ट केली. तसेच दि. ११/०७/२०२५ रोजीचे शासन परिपत्रक क्र. गौखनि-१०/०५२५ प्र.क्र.१७९/ख-२ नुसार ६०२०.३५९ ब्रास गौणखनिजाचे स्वामित्वधन प्रति महसूलाची आर्थीक फसवणूक केलेकारणाने फौजदारी गुन्हा दाखल करणेची विनंती केलेली आहे.

वरील सर्व बाब लक्षात घेता व सर्व कागदपत्रांची पडताळणी केली असता मौजे मुंढवा ता. पुणे शहर येथील स. नं. ५२/१पै, ५४/१/२६ पै, ५४/१/२७पै, ५४/१/२९ पै सि टी सर्वे नं. १९३८, १९३३, १९३४, १९३६ पै या मिळकती यांसी क्षेत्र २७८५० चौ. मी मध्ये प्रतिवादी मे. स्पेशिअलिटी लँडमार्क प्रा. लि. तर्फे श्री शैलेश अगरवाल यांनी प्रकल्पाकरीता अनाधिकृत गौणखनिज उत्खनन केल्याचे निदर्शनास आले आहे. दि. ०८/०५/२०२५ रोजीच्या ईटीएस मोजणीनुसार प्रकल्पातून एकूण २२४४२.३६७ ब्रास गौणखनिज उत्खनन झालेचे अहवालात नमूद आहे. त्यापैकी ६४२२.००८ ब्रास गौणखनिज हे त्याच प्रकल्प क्षेत्रात साठा व फिलिंग करीता वापर केले आहे. प्रतिवादी यांनी आजवर केवळ १०००० ब्रास करीताचे तात्पुरता गौण खनिज उत्खनन व वाहतूक परवाना प्राप्त केला आहे. उर्वरीत ६०२०.३५९ ब्रास गौण खनिज हे प्रकल्पक्षेत्रात साठा न करता त्याचे विनापरवाना उत्खनन करून प्रकल्प क्षेत्राबाहेर वाहतूक झालेचे आज रोजी निष्पन्न होत आहे.

तरी महाराष्ट्र शासन राजपत्रसाधारण भाग ४ दि. ११ मे २०१५ नुसार "एखादया भूखंडाचा विकास करताना माती, मुरुम व दगड अशा सर्व प्रकारच्या गौण खनिजाचे उत्खनन करून ते गौण खनिज त्याच भूखंडाच्या सपाटीकरणा करीता वापरले जाईल किंवा ती अशा भूखंडाच्या विकासाच्या प्रक्रियेतील कोणत्याही कामसाठी वापरली जाईल, त्यावेळी अशा गौणखनिजावर स्वामित्वधन आकारणीस पात्र राहणार नाही."

तसेच महसूल व वनविभाग यांचेकडील शासन परिपत्रक क्र. गौखनि /१० / ११२१ / प्र. क्र.२९२/ ख-२ दि. ०९/०५/२०२३ अन्वये, विकसकाच्या उत्खनन क्षेत्रानुसार एकूण उत्खनन होणा-या गौणखनिजापैकी २५ टक्के गौण खनिजावर स्वामित्वधन आकारणेबाबत नमूद केलेले आहे. त्यानुसार विकसकाने वाहतूक करावयाच्या गौण खनिजाचे स्वामित्वधन भरल्यानंतर वाहतूकीसाठी आवश्यक वाहतूक परवाना (TP) "mahakhanij" या पोर्टल मार्फत घेणे बंधनकारक राहिल आणि एखादया विकसकास उपरोक्त नमूद परिमाणापेक्षा जादाचे गौण खनिजाची इतर ठिकाणी वाहतूक करावयाची असल्यास अशा गौण खनिजाचे स्वामित्वधन भरून "mahakhanij" या पोर्टल मार्फत वाहतूक परवाना (TP) घेणे बंधनकारक राहिल. यानुसार प्रतिवादी यांनी केलेले एकूण गौणखनिज उत्खनन

२२४४२.३६७ ब्रास च्या २५% म्हणजे ५६१०.५९ ब्रास गौणखनिजावर स्वामित्वधन भरून, प्रतिवादी यांनी तात्पुरता परवाना घेणे अपेक्षित होते. उर्वरीत ७५% गौणखनिज १६,८३१.७७७ ब्रास त्याच भूखंड क्षेत्रात वापरणे आवश्यक होते.

परंतु ईटीएस मोजणीनुसार केवळ ६४२२.००८ ब्रास गौण खनिज जागेवर साठा व फिलिंग साठी वापरलेले दिसून येते. व उर्वरीत ७५% गौणखनिजपैकी १०४०९.७६९ ब्रास जागेवर आढळून आले नाही. आज रोजी २५% गौणखनिज ५६१००.५९ ब्रास + १०४०९.७६९ ब्रास = १६०२०.३५९ ब्रास गौण खनिज एकूण प्रकल्पक्षेत्रा बाहेर वाहतूक झालेले दिसून येते.

वरील सर्व बाबींचे अवलोकन करता दि. ०८/०५/२०२५ रोजीची ईटीएस मोजणी प्रमाणे सदर प्रकल्पामध्ये एकूण २२४४२.३६७ ब्रास उत्खनन झाले. त्यापैकी प्रतिवादी यांनी वेळोवेळी केवळ १०००० ब्रास परवानगी घेतलेली आहे. तसेच ६४२२.००८ ब्रास गौणखनिजाचा साठा व फिलिंग करीता प्रकल्पक्षेत्रा आढळून आलेले आहे. उर्वरीत ६०२०.३५९ ब्रास गौणखनिजाचे प्रकल्पक्षेत्राबाहेर विनापरवाना वाहतूक झालेले निष्पन्न होत आहे.

प्रतिवादी यांनी ६०२०.३५९ ब्रास इतके अनधिकृत गौणखनिज उत्खनन करून प्रकल्प क्षेत्राबाहेर विनापरवाना वाहतूक केलेचे निष्पन्न झाले असल्याने, प्रतिवादी हे दंडात्मक कारवाईस पात्र ठरत असल्यामूळे, मी सूर्यकांत वेवले, तहसिलदार, पुणे शहर, मला महाराष्ट्र जमिन महसुल अधिनियम १९६६ चेकलम ४८ (७) व (८) अन्वये प्राप्त झालेल्या अधिकारांचा वापर करुन व मा. जिल्हाधिकारी कार्यालय पुणे (खनिकर्म शाखा) यांचेकडील परिपत्रक क्र. खनिकर्म /कावि/२०६/२०२५ दि. १७/०१/२०२५ अन्वये पुढीप्रमाणे आदेश देत आहे.

आदेश

मौजे मुंढवा ता. पुणे शहर येथील स नं. ५२/१पै, ५४/१/२६ पै, ५४/१/२७पै, ५४/१/२९ पै सि टी सर्वे नं. १९३८, १९३३, १९३४, १९३६ पै या मिळकत क्षेत्र २७८५० चौ. मी मध्ये प्रतिवादी मे. स्पेशिअलिटी लँडमार्क प्रा. लि. तर्फे श्री शैलेश अगरवाल यांनी प्रकल्पाकरीता अनधिकृत गौणखनिज उत्खनन केलेचे ईटीएस मोजणी अहलालानुसार एकूण २२४४२.३६७ ब्रास गौणखनिज उत्खनन केले आहे. त्यापैकी ६४२२.००८ ब्रास गौणखनिज हे त्याच प्रकल्प क्षेत्रात साठा व फिलिंग करीता वापर केले आहे. त्यासाठी केवळ १०००० ब्रास करीताचे तात्पुरता गौण खनिज उत्खनन व वाहतूक परवाना प्राप्त केले व उर्वरीत ६०२०.३५९ ब्रास गौणखनिजाचे अनधिकृत उत्खनन व विनापरवाना प्रकल्प क्षेत्राबाहेर वाहतूक केलेचे निदर्शनास आले आहे. सदर ६०२०.३५९ ब्रास अनधिकृत गौणखनिज उत्खनन व वाहतूककामी माती, मुरुम या गौणखनिज स्वामित्वधनापोटी प्रतिवादी/जाब देणार यांचेकडून महाराष्ट्र जमिन महसूल अधिनियम १९६६ चे कलम ४८ (७) व (८) मधील तरतूदीनुसार पुढीलप्रमाणे स्वामित्वधन व दंड वसूल करणेची कार्यवाही खालील प्रमाणे करणेत येत आहे.

खनिजाचे प्रकार	एकूण अनधिकृत उत्खनन ब्रास	जिल्हा दर सुची प्रमाणे किंमत रुपये	निश्चित केले बाजार भाव किमंत प्रति ब्रास रुपये	५ पट दंडाची रक्कम रुपये	दंडाची रक्कम	रॉयलटी दर	रॉयलटी रक्कम रुपये	एकूण दंडाची रक्कम (७+९)
२	३	४	५	६	७	८	९	१०
माती / मुरूम	६०२०.३५९	९६४/-	१०६०/-	५३००/-	३१९०७९०२.७०/-	६००/-	३६१२२१५.४०/-	३५५२०११८.१०/-

(183)

उपरोक्त रक्कम रुपये ३,५५,२०,११८.१०/- पुर्णांकात ३,५५,२०,११८/- (अक्षरी रक्कम रुपये तीन कोटी पंचावन्न लाख वीस हजार एकशे अठरा फक्त) इतकी रक्कम प्रतिवादी मे. स्पेशिअलिटी लँडमार्क प्रा. लि. तर्फे श्री शैलेश अगरवाल यांनी तात्काळ शासनाकडे जमा करावी.

(सूर्यकांत येवले)
तहसिलदार पुणे शहर

OIC

प्रति,

मे. स्पेशिअलिटी लँडमार्क प्रा. लि. तर्फे श्री शैलेश अगरवाल, पुणे

प्रत :- १) मा. उपविभागीय अधिकारी, पुणे उपविभाग पुणे यांचेकडे माहितीस्तव सादर.

२) श्री अक्षय सुमंत देठे, रा. मांजरी बुद्रुक, पुणे

३) ग्राम महसूल अधिकारी, मुंढवा यांना पुढील कार्यवाहीस्तव

२/- सदरचा आदेश संबंधीतांना बजावुन त्यांच्या दिनांकीत स्वाक्षरी घेऊन पोहचसह पुर्तता अहवाल सादर करावा तसेच संबधितांनी विहीत मुदतीत रक्कम जमा न केलेससदर मालमत्ता पत्रक व ७/१२ वर उपरोक्त आदेशित रकमेचा बोजा ठेवणेत यावा. त्याबाबत स्वतंत्र पूर्तता अहवाल आवश्यक त्या कागदपत्रासहसादर करावा.

तहसिलदार पुणे शहर

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Tahasildar Pune City

English Translation of Penalty order.

REFERENCES:

1. Complaint Application dated 07.04.2025 submitted by the Applicant, Mr. Akshay Sumant Dethe.
2. ETS Survey/Measurement Report dated 08.05.2025.
3. Hearing Notice issued by this office bearing No. Gokh/Kaavi/232/2025 dated 30.05.2025.
4. Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966.
5. Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013.
6. Maharashtra Government Gazette dated 11.05.2015 regarding amendments to the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013.
7. Government Circular No. Gokhani-10/0316/Pr.Kr.269/Kh dated 14.06.2017 issued by the Revenue and Forest Department.
8. Government Circular No. Gokhani/10/1012/Pr.Kr.603/Kh dated 01.11.2021 issued by the Revenue and Forest Department.
9. Government Circular No. Gokhani/10/1121/Pr.Kr.292/Kh-2 dated 09.05.2023 issued by the Revenue and Forest Department.
10. Circular No. Khanikarm/Kaavi/206/2025 dated 17.01.2025 issued by the Office of the District Collector, Pune (Mining Branch).

OFFICE OF THE TAHSILDAR, PUNE CITY

931, Shukrawar Peth, Pune

No.: Gokh/SSR/11/2025

Date: 03.11.2025

SUBJECT: Unauthorized Extraction of Minor Minerals

With respect to Survey No. 52/1 Pt., 54/1/26 Pt., 54/1/26 Pt., 54/1/27 Pt., and City Survey Nos. 1938, 1933, 1934 and 1936 Pt. situated at Mouje Mundhwa, Taluka Pune City, wherein M/s Specialty Landmark Pvt. Ltd., through Mr. Shailesh Agarwal, has allegedly undertaken unauthorized extraction of minor minerals and carried out illegal transportation thereof.

ORDER

A complaint has been received by this office, as referred to at Sr. No. 1 above, alleging that M/s Specialty Landmark Pvt. Ltd., through Mr. Shailesh Agarwal, carried out unauthorized extraction

of minor minerals on the properties bearing Survey No. 52/1 Pt., 54/1/26 Pt., 54/1/26 Pt., 54/1/27 Pt., and City Survey Nos. 1938, 1933, 1934 and 1936 Pt., situated at Mouje Mundhwa, Taluka Pune City, admeasuring 27,850 sq. mtrs., and illegally transported the excavated material outside the project area.

Accordingly, vide communication dated 02.05.2025, this office directed the Village Revenue Officer, Mundhwa, and the ETS Measurement Holder, Shri B. K. Panmadhe, to conduct an ETS survey/measurement in the said matter.

Pursuant thereto, as referred to at Sr. No. 2 above, an ETS survey/measurement of the excavated property was conducted and the report thereof was received by this office. Upon examination of the said report, it has been found that the person concerned had excavated a total of 22,442.367 brass of minor mineral from the said property, out of which 6,422.008 brass of minor mineral was utilized within the project area for stockpiling and filling purposes.

Pursuant to the ETS Measurement Report and as referred to in Reference No. 3, notices were issued by this office to the Complainant/Appellant and the Respondent/Noticee, and in compliance with the principles of natural justice, opportunities were granted to submit their respective statements on 12.06.2025, 17.06.2025, 27.06.2025, 30.06.2025, 10.07.2025 and 21.07.2025.

In the present matter, the Complainant/Appellant, Mr. Akshay Dethe, and on behalf of the Respondent/Noticee, Mr. Aniket Gupta, appeared and advanced their submissions. During the hearing held on 12.06.2025, both the Complainant and the Respondent appeared and submitted written statements.

As per the written statement filed by the Respondent, in accordance with the Government Resolution dated 11.05.2021, the excavated material generated during the excavation on the said property was utilized within the same property and, therefore, the Government Resolution had been duly complied with. Reference was also made to the provisions contained in the Government Circular dated 09.05.2023. According to the said Government policy, where excavation exceeds 1 hectare but is less than 5 hectares, permission is required only for 25% of the minor mineral. It was further contended that permission had been obtained for an area larger than that prescribed under the Government policy. Copies of the excavation permissions obtained for the said activity were also produced.

The Respondent had obtained temporary minor mineral excavation permissions from the Office of the Sub-Divisional Officer, Pune Sub-Division, as follows:

1. 2,000 brass vide order dated 11.12.2023;
2. 2,000 brass vide order dated 09.02.2024;
3. 2,000 brass vide order dated 18.06.2024;
4. 2,000 brass vide order dated 17.06.2024; and
5. 2,000 brass vide order dated 25.10.2024.

Thus, the Respondent had obtained temporary minor mineral excavation permissions aggregating to 10,000 brass. Copies of the said permissions were placed on record.

In his written submissions, the Complainant produced a copy of the order passed by the Hon'ble High Court in Civil Appeal Writ Petition No. 10449 of 2023, AIG Developers (Pune) Pvt. Ltd. versus State of Maharashtra. The Complainant also produced Environmental Clearance No. SIA/MH/INFRA/424118/2023 dated 26.09.2023.

As per the said Environmental Clearance, the Respondent was permitted to excavate 92,400 cubic metres (32,645 brass). Out of the same, the balance quantity of minor mineral, namely 60,461 cubic metres (21,361 brass), was proposed to be transported to a stone crusher, as recorded therein.

As per Reference No. 2, the ETS Measurement Report dated 08.05.2025 was received by this office. According to the said report, a total quantity of 22,442.367 brass of minor mineral had been excavated from the project site. It was further recorded that 6,422.008 brass of minor mineral had been utilized within the project area for stockpiling and filling purposes.

At the subsequent hearing held on 17.06.2025, Advocate Ratna Bhingardive appeared on behalf of the Complainant and the Respondent. The Complainant submitted further written arguments. It was contended therein that, according to the ETS Measurement Report dated 08.05.2025, a total quantity of 22,442.367 brass of minor mineral had been excavated from the project area, out of which 6,422.367 brass had been utilized within the same project area for stockpiling and filling purposes.

It was further submitted that the Respondent had obtained temporary excavation and transportation permissions for only 10,000 brass of minor mineral and had carried out transportation pursuant thereto. According to the ETS measurement, the remaining 6,020.359

brass of minor mineral had been excavated and transported outside the project area without any valid permission.

Accordingly, it was contended that the Respondent had caused a loss to the Government by evading royalty amounting to Rs. 36,12,215.40 in respect of 6,020.359 brass of minor mineral. It was further requested that action be initiated against the Respondent in accordance with Government Circular No. Gokhani-10/0316/Pr.Kr.269-Kh dated 14.06.2017 issued by the Revenue and Forest Department, including recovery of a five-times penalty amounting to Rs. 3,19,07,902.70, making a total recoverable amount of Rs. 3,55,20,118/-.

At the subsequent hearing held on 10.07.2025, Advocate Ratna Bhingardive appeared on behalf of the Complainant and the Respondent. The Respondent submitted written submissions. In the said written submissions, the Respondent stated that valid permission for excavation of 10,000 brass had been duly obtained. It was further contended that the remaining excavated material had been utilized at the same site for construction of a labour camp, site office, and for filling required for the construction of an internal road of approximately 100 metres for vehicular movement. An Architect's Certificate dated 01.11.2023 was also annexed in support thereof.

At the final hearing held on 21.07.2025, both the Complainant and the Respondent remained present. The Complainant submitted written arguments. In the said written submissions, the Complainant contended that 6,020.359 brass of minor mineral had neither been stockpiled within the project area nor retained therein, but had been excavated and transported outside the project area without any valid permission. The Complainant further submitted a clarification demonstrating how the contentions raised by the Respondent in the hearing dated 10.07.2025 were incorrect.

As per Clause 2 of the Government Circular dated 09.05.2023, it is provided that royalty is chargeable on 25% of the total quantity of minor minerals excavated from a developer's excavation area. Accordingly, after payment of royalty on the quantity of minor mineral proposed to be transported, it is mandatory to obtain a Transport Permit (TP) through the "Mahakhanij" portal. Further, where a developer intends to transport a quantity of minor mineral exceeding the prescribed limit to any other location, it is mandatory to pay the applicable royalty and obtain a Transport Permit (TP) through the "Mahakhanij" portal.

The Complainant explained the aforesaid position both in the written submissions and during oral arguments. The Complainant further relied upon Government Circular No. Gokhani-10/0525/Pr.Kr.179/Kh-2 dated 11.07.2025 and requested initiation of criminal proceedings on the ground that, by evading payment of royalty in respect of 6,020.359 brass of minor mineral, financial loss had been caused to the Government Revenue.

Upon consideration of all the aforesaid facts and upon verification of the entire record, it has been observed that, within the property admeasuring 27,850 square metres situated at Survey No. 52/1 Pt., 54/1/26 Pt., 54/1/26 Pt., 54/1/27 Pt., and City Survey Nos. 1938, 1933, 1934 and 1936 Pt. Mouje Mundhwa, Taluka Pune City, M/s Specialty Landmark Pvt. Ltd., through Shri Shailesh Agarwal, carried out unauthorized excavation of minor minerals for the project.

As per the ETS Measurement Report dated 08.05.2025, a total of 22,442.367 brass of minor mineral was excavated from the project site. Out of the said quantity, 6,422.008 brass of minor mineral was utilized within the project area itself for stockpiling and filling purposes. The Respondent has obtained temporary excavation and transportation permissions only for 10,000 brass of minor mineral. It is therefore established, as on date, that the remaining 6,020.359 brass of minor mineral was excavated without authorization and transported outside the project area without obtaining the requisite permission.

However, as per the Maharashtra Government Gazette, Extraordinary Part IV, dated 11 May 2015:

"Where, during development of a plot, minor minerals such as soil, murum and stone are excavated and such minor minerals are utilized for levelling of the said plot or for any activity forming part of the development process of the said plot, no royalty shall be leviable on such minor minerals."

Further, as per Government Circular No. Gokhani/10/1121/Pr.Kr.292/Kh-2 dated 09.05.2023 issued by the Revenue and Forest Department, royalty is chargeable on 25% of the total quantity of minor minerals excavated from a developer's excavation area. Accordingly, after payment of royalty on the quantity proposed to be transported, it is mandatory to obtain a Transport Permit (TP) through the "Mahakhanij" portal. Further, where a developer intends to transport quantities exceeding the prescribed limit to any other location, payment of royalty and procurement of a Transport Permit (TP) through the "Mahakhanij" portal is mandatory.

Accordingly, with respect to the total quantity of minor minerals excavated by the Respondent...

Twenty-five percent (25%) of 22,442.367 brass comes to 5,610.59 brass. The Respondent was required to obtain a temporary permit after payment of royalty on the said quantity of minor mineral. The remaining 75% of the minor mineral, i.e., 16,831.777 brass, was required to be utilized within the same plot area.

However, as per the ETS measurement, only 6,422.008 brass of minor mineral was found to have been utilized on-site for stockpiling and filling purposes. Out of the remaining 75% quantity of minor mineral, 10,409.769 brass was not found at the site. Thus, as on date, 25% of the minor mineral amounting to 5,610.59 brass plus 10,409.769 brass, aggregating to 16,020.359 brass of minor mineral, appears to have been transported outside the project area.

Upon consideration of all the aforesaid facts, it is observed from the ETS measurement dated 08.05.2025 that a total quantity of 22,442.367 brass of minor mineral was excavated from the project site. Out of the said quantity, the Respondent had obtained permissions from time to time only for 10,000 brass. Further, 6,422.008 brass of minor mineral was found within the project area for stockpiling and filling purposes. Consequently, the remaining 6,020.359 brass of minor mineral is found to have been transported outside the project area without obtaining the requisite permission.

Since it has been established that the Respondent excavated 6,020.359 brass of minor mineral unauthorisedly and transported the same outside the project area without permission, the Respondent is liable for penal action. Therefore, I, Suryakant Yevale, Tahsildar, Pune City, in exercise of the powers conferred upon me under Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966, and in accordance with Circular No. Khanikarm/Kaavi/206/2025 dated 17.01.2025 issued by the Office of the District Collector, Pune (Mining Branch), hereby pass the following order:

ORDER

In respect of the property situated at Mouje Mundhwa, Taluka Pune City, bearing Survey No. 52/1 Pt., 54/1/26 Pt., 54/1/26 Pt., 54/1/27 Pt., and City Survey Nos. 1938, 1933, 1934 and 1936 Pt., admeasuring 27,850 sq. metres, the Respondent, M/s Specialty Landmark Pvt. Ltd., through Shri Shailesh Agarwal, has, as per the ETS Measurement Report, excavated a total of 22,442.367 brass of minor mineral for the project.

Out of the said quantity, 6,422.008 brass of minor mineral has been utilized within the project area itself for stockpiling and filling purposes. The Respondent had obtained temporary

excavation and transportation permission only for 10,000 brass of minor mineral. The remaining 6,020.359 brass of minor mineral has been found to have been excavated unauthorisedly and transported outside the project area without permission.

Accordingly, for the unauthorised excavation and transportation of 6,020.359 brass of minor mineral (soil/murum), royalty and penalty are recoverable from the Respondent/Noticee under Sections 48(7) and 48(8) of the Maharashtra Land Revenue Code, 1966, as detailed below:

Mineral Type	Total Unauthorized Excavation (Brass)	District Schedule Rate (Rs.)	Assessed Market Rate per Brass (Rs.)	Five Times Penalty Rate (Rs.)	Penalty Amount (Rs.)	Royalty Rate (Rs.)	Royalty Amount (Rs.)	Total Recoverable Amount (Penalty + Royalty)
Soil / Murum	6,020.359	964/-	1,060/-	5,300/-	Rs. 3,19,07,902.70	600/-	Rs. 36,12,215.40	Rs. 3,55,20,118.10

Accordingly, recovery proceedings for the aforesaid royalty and penalty amounts are hereby directed to be initiated against the Respondent.

The aforesaid amount of Rs. 3,55,20,118.10/- is rounded off to Rs. 3,55,20,118/- (Rupees Three Crore Fifty-Five Lakh Twenty Thousand One Hundred Eighteen Only).

The said amount shall be deposited forthwith with the Government by the Respondent, M/s Specialty Landmark Pvt. Ltd., through Shri Shailesh Agarwal.

Sd/-

(Suryakant Yevale)

Tahsildar, Pune City

To,

M/s Specialty Landmark Pvt. Ltd.,

Through Shri Shailesh Agarwal,

Pune.

Copy to:

1. The Sub-Divisional Officer, Pune Sub-Division, Pune, for information.
2. Shri Akshay Sumant Dethe, Resident of Manjari Budruk, Pune.
3. The Village Revenue Officer, Mundhwa, for further necessary action.

Further Directions:

The present order shall be duly served upon the concerned parties after obtaining their dated acknowledgements/signatures, and a compliance report along with proof of service shall be submitted.

Further, in the event the concerned party fails to deposit the aforesaid amount within the prescribed period, a separate compliance report, along with all necessary supporting documents, shall be submitted regarding the entry of the aforesaid amount as a charge/encumbrance on the Property Record and the 7/12 Extract.

Sd/-

Tahsildar, Pune City

Tahsildar,

Pune City

TRUE COPY

Annexure R-23.

1040

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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29216 of 2025

Chittaranjan Sethy .... **Petitioner**

Mr. K.K. Rout, Advocate

-Versus-

Odisha Information Commission, Bhubaneswar & others .... **Opposite Parties**

Mr. M.K. Mohanty, ASC
Mr. B.K. Dash, Advocate

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
15.01.2026

Order No.

02. 1. Heard learned counsel for the respective parties.

2. Instant writ petition is filed by the petitioner challenging the impugned order dated 13th September, 2025 as at Annexure-6 with a direction to the State Information Commission to dispose of the appeals within a stipulated period.

3. As per the applications/appeals at Annexure-1 series, the petitioner moved the authority concerned seeking supply of information under the RTI Act and it was disposed of vide Annexure-6, which is under challenge. According to the learned counsel for the petitioner, the impugned order dated 13th September, 2025 i.e. Annexure-6 is a cryptic one and that apart, all the applications have been disposed of claiming it to be repeated ones. The submission is that some of the

information has been provided but not entirely while considering the request received vide Annexure-1 series. That apart, the contention is that opposite party No.1 could not have debarred the petitioner in making applications in future with restriction imposed, as revealed from Annexure-6, hence, therefore, the impugned decision dated 13th September, 2025 is liable to be interfered with and set aside.

4. Recorded the submission of Mr. Dash, learned counsel for opposite party No.1 and also Mr. Mohanty, learned ASC for the State appearing for opposite party Nos.2 to 4.

5. The applications as per Annexure-1 series were received from the petitioner by opposite party No.2 and as against the same, the appeals were carried vide Annexure-2 series. The copies of the appeal memorandums are at Annexure-3 series. Considering the complaints, the decision in appeals vide order dated 13th September, 2025 was taken by opposite party No.1 and dismissed the same on the premise that the information sought for is repetitive. Considering the conduct of the petitioner, opposite party No.1 further debarred him from filing any further applications for a period of one year with immediate effect, however, allowing 12 applications in the maximum under the RTI Act in a calendar year. Mr. Rout, learned counsel for the petitioner submits that such a restriction imposed by opposite party No.1 is not legally tenable. The further claim is that the petitioner has not been supplied the details of the information as applied vide Annexure-1 series.

6. Mr. Dash, learned counsel for opposite party No.1 and Mr. Mohanty, learned ASC for the State justify the impugned decision as per Annexure-6.

7. On a reference to the applications at Annexure-1 series and details of the information sought for, it is made to reveal that the entire of the information has not been provided to the petitioner and therefore, this Court is of the humble view that excepting the ones already supplied, the rest should be shared with the petitioner considering the applications as per Annexure-1 series. The Court is also of the view that the restriction imposed on the petitioner not to make any further applications under the RTI Act in a calendar year but allowing 12 applications only in a year before various public authorities is not justified. In other words, the Court is of the conclusion that opposite party No.1 could not have imposed such a restriction on the petitioner even though he is in the habit of filing number of applications seeking information under the RTI Act and therefore, to that extent, the impugned order at Annexure-6 is liable to be set aside with the direction to opposite party No.2 to supply the balance of the information considering Annexure-1 series.

8. Accordingly, it is ordered.

9. In the result, the writ petition stands disposed of with the direction as aforesaid. As a necessary corollary, the impugned order dated 13th September, 2025 at Annexure-6 by opposite party No.1 is hereby set aside to the extent as aforesaid.

10. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge

Alok

Validity unknown
Digitally Signed
Signed by: ALOK RANJAN SETHY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 19-Jan-2026 10:54:50

M/s. Bajaj Finserv Ventures Limited & Others	Environmental Impact Assessment (EIA) Report for Proposed IT/ITES/Commercial Building Project Located at S. No. 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C, 84/35/D, 84/36/A, 84/37/A, & 84/38/G(part), CTS No 1215, 1217, 1218, 1234, 1257, 1258, 1268, 1271(part), Mundhwa Tal. Haveli, Dist. Pune, 411036, Maharashtra

EXECUTIVE SUMMARY

1.0 Introduction

This EIA report is prepared to assess the Environmental Impact and to suggest suitable mitigation measures for Proposed IT/ITES/Commercial Building Project of M/s. Bajaj Finserv Ventures Limited & Others at S. No. 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C, 84/35/D, 84/36/A, 84/37/A, & 84/38/G(part), CTS No 1215, 1217, 1218, 1234, 1257, 1258, 1268, 1271(part), Mundhwa Tal. Haveli, Dist. Pune,411036, Maharashtra.

The proposed project is a Greenfield (New) for Commercial Building Project. As per Environmental Impact Assessment Notification published by MoEF&CC vide S.O. 1533 dated 14th September, 2006 and its amendments till date, the proposed activity of Construction project more than 1,50,000 Sq.mt. entails Prior Environmental Clearance as proposed activity is falling under schedule 8(b) of the notification & to be appraised by SEAC as Category B1 project.

Application submitted for TOR letter to SEIAA Maharashtra vide proposal number SIA/MH/INFRA2/489762/2024 dated 18/09/2024 and Auto ToR issued by SEIAA Maharashtra on dated 12/11/2024.

Table 1: The Owner (Project Proponent)

S. No.	Particulars	Details
1.	Name of the applicant	1. Bajaj Finserv Ventures Limited 2. Bajaj Finserv Limited 3. Bajaj Finance Limited 4. Bajaj Allianz General Insurance Company Limited 5. Bajaj Allianz Life Insurance Company Limited
2.	Registered Address	Bajaj Finserv Limited, S.No 208/1B, Off Pune-Ahmednagar Road, Lohegaon, Viman Nagar, 411014
3.	Address for correspondence	Bajaj Finserv Limited, S.No 208/1B, Off Pune-Ahmednagar Road, Lohegaon, Viman Nagar, 411014
	Name	Mahesh Kunkulol
	Designation	Group RE & Infra Head
	Pin Code	411014
	E-mail	mahesh.kunkulol@bajajfinserv.in
	Telephone No.	+91 (20) 71505700
	Fax No.	--

2.0 Project Location

Proposed Commercial Building will be carried out at S. No. 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C, 84/35/D, 84/36/A, 84/37/A, & 84/38/G(part), CTS No 1215, 1217, 1218, 1234, 1257, 1258, 1268, 1271(part), Mundhwa Tal. Haveli, Dist. Pune, 411036, Maharashtra, by M/s. Bajaj Finserv Ventures Limited & Others. The GPS (Global Positioning System) location of the project site is 183226.63N latitude and 735501.92E longitudes & it is situated at 545 m above from mean sea level.

STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY

No. SIA/MH/INFRA2/523378/2025
Environment & Climate
Change Department
Room No. 217, 2nd Floor,
Mantralaya, Mumbai- 400032.

To
M/s. Bajaj Finserv Ventures Limited & Others,
S. No. 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34,
84/35/A, 84/35/B, 84/35/C 84/35/D, 84/36/A,
84/37/A, & 84/38/G(part), CTS No 1215, 1217,
1218, 1234, 1257, 1258, 1268, 1271(part),
Mundhwa, Tal. Haveli, Dist. Pune.

Subject : Environmental Clearance for Proposed IT/ITES/Commercial Building Project Located at S. No. 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C 84/35/D, 84/36/A, 84/37/A, & 84/38/G(part), CTS No 1215, 1217, 1218, 1234, 1257, 1258, 1268, 1271(part), Mundhwa, Tal. Haveli, Dist. Pune, Maharashtra by M/s. Bajaj Finserv Ventures Limited & Others

Reference : Application no. SIA/MH/INFRA2/523378/2025

This has reference to your communication on the above-mentioned subject. The proposal was considered by the SEAC-3 in its 215th meeting under screening category 8 (b) B1 as per EIA Notification, 2006 and recommend to SEIAA. Proposal then considered in 294th (Day-1) meeting of State Level Environment Impact Assessment Authority (SEIAA) held on 28th May, 2025.

2. Brief Information of the project submitted by you is as below:-

Proposal Number	PARIVESH Proposal No. SIA/MH/INFRA2/523378/2025	
Name of Project	Proposed IT/ITES/Commercial Building Project Located at S. No. 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C, 84/35/D, 84/36/A, 84/37/A, and 84/38/G(part), CTS No 1215, 1217, 1218, 1234, 1257, 1258, 1268, 1271(part), Mundhwa Tal. Haveli, Dist. Pune, Maharashtra by M/s. Bajaj Finserv Ventures Limited **and Others**	
Project category	8 (b), B1	
Type of Institution	Private	
Project Proponent	Name	M/s. Bajaj Finserv Ventures Limited and Others
	Regd. Office address	Bajaj Finserv Limited, S.No 208/1B, Off Pune-Ahmednagar Road, Lohegaon, Viman Nagar, 411014
Consultant	Element Consultancy Services, Pune (NABET Certificate No. NABET/EIA/2326/IA 0127, Valid up to 11/08/2026)	
Applied for	New Greenfield Project	
Details of previous EC	NA	
Location of the project	S.No - 84/3, 84/4A, 84/4B/1, 84/5, 84/6, 84/34, 84/35/A, 84/35/B, 84/35/C 84/35/D, 84/36/A, 84/37/A, and 84/38/G(part), CTS No 1215, 1217, 1218,	

Item No. 1

(Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

ORIGINAL APPLICATION NO.138 OF 2025 (WZ)

Ajinkya Dilip Barne ..... **Applicant**

Versus

Pimpri-Chinchwad Municipal Corporation & Ors. ... **Respondents**

Date of hearing : 21.11.2025

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SUJIT KUMAR BAJPAYEE, EXPERT MEMBER

Applicant : Applicant in person present through VC

ORDER

1. This Original Application has been filed with the prayers that respondent No.3 – M/s Sukhwani Chawala Construction be directed to restore the alignment of natural nala at Survey No.27, Thergaon. Pimpri-Chinchwad, which has been shifted from its earlier location by the Project Proponent, an order of demolition of structures be passed regarding the construction made over the original nala and existing natural well and to restore the water-source to its natural state; the building permissions and consents granted by MPCB – respondent No.4 exceeding approved EC limits be quashed and direct forfeiture of developer/respondent No.3's bank guarantee.

2. The submission of the applicant is that he is an environmentalist. According to him, a severe and continuing environmental damage is being

caused in Survey No.27 of Thergaon, Pimpri-Chinchwad on account of diversion, covering and re-alignment of a natural storm water drain (nala) by respondent No.3 as it is constructing high-rise residential building over the natural water-source and existing open well. The said natural nala forms part of Thergaon-Kalewadi-Pimple Nilakh drainage system, which is evident from the official records of Pimpri-Chinchwad Municipal Corporation (PCMC).

3. At this stage, when we enquired from the applicant as to where is the said official document showing said natural nala to be a part of drainage system as mentioned above, he drew our attention to page 259 of the paper-book, which is site inspection report conducted by PCMC Drainage Department on 08.02.2022 (though we do not find the same to have been mentioned). A perusal of this document does not disclose that the natural nala is a part of above mentioned drainage system.

4. Further in the pleadings, it is mentioned that respondent No.3 diverted the said nala and constructed over the same, thereby obstructed natural flow,, which is likely to cause flooding, groundwater depletion and irreversible ecological imbalance in the surrounding urban area. Further it is mentioned that the respondent authorities have permitted unauthorized extraction of groundwater, establishment of Ready-Mix Concrete (RMC) plant and allowed construction activities without valid EC or adherence to the Unified Development Control and Promotion Regulations (UDCPR). These activities are causing grave harm to the environment and pose a continuing threat to public health and ecology in the region. Therefore, the above mentioned prayers are made.

5. We, at the very outset, enquired from the applicant as to where is the law to the effect that the Project Proponent cannot divert the location of the

nala within its own premises and where is the evidence that this kind of diversion is likely to result in flooding of the area, he could not show anything in that regard.

6. We have gone through the documents, which the applicant has attached with the memo of Original Application. In Form-I, annexed at page 84 of the paper-book, at point No.1.24, it is recorded in front of the information sought as "*Changes in water bodies or the land surface affecting drainage or run-off*? that "*Nala will be retained on the plot and will be channelized properly.*" In Form-1A at page 83 of the paper-book, at point 1.5 to the question "Will the proposal involve alteration of natural drainage system ?, the answer given is "*Nala passing through site will be properly channelized*".

7. The Environmental Clearance (EC) dated 16.01.2016, which has been annexed by the applicant, granted to respondent No.3 for proposed construction of total built-up area (TBUA) of 63,837.41 sq.mtrs, shows that it was granted by the SEIAA.

8. We also find on record at page 47 of the paper-book that respondent No.1 – PCMC granted permission to respondent No.3 to re-locate the drain within the same plot, subject to certain terms and conditions. The above document distinctly shows that the alleged diversion of nala has been done by respondent No.3 in accordance with the permission granted for its re-location by the PCMC – respondent No.1 and this permission, which was granted on 15.03.2022, has not been assailed by the applicant, who is appearing in person through VC today. Therefore, it cannot be held, at the very outset that the permission, which is validly granted by respondent No.1 – PCMC, without being assailed how the restoration of that site could be ordered.

9. In view of above discussion, we do not find any force to admit this Original Application, which is liable to be dismissed at the stage of admission itself and it is accordingly dismissed.

10. No order as to costs.

Dinesh Kumar Singh, JM

Dr. Sujit Kumar Bajpayee, EM

November 21, 2025
ORIGINAL APPLICATION NO.138 2025 (WZ)
npj

PETITIONER:
SUBHASH KUMAR

Vs.

RESPONDENT:
STATE OF BIHAR AND ORS.

DATE OF JUDGMENT09/01/1991

BENCH:
SINGH, K.N. (J)
BENCH:
SINGH, K.N. (J)
OJHA, N.D. (J)

CITATION:
1991 AIR 420 1991 SCR (1) 5
1991 SCC (1) 598 JT 1991 (1) 77
1991 SCALE (1)8

ACT:
Water (Prevention and Control of Pollution)Act, 1974: Sections 17, 24, 25 and 26.
Constitution of India, 1950: Article 21-Right to live includes right to enjoyment of pollution free water and air-A citizen has a right to invoke Article 32 for removing pollution.
Article 32- Writ petition in public interest-Allegation that West Bokaro Collieries and Tata Iron and Steel Company are polluting the river Bokaro by discharging slurry from their washeries into the river-No material to substantiate the allegations-Held petition is not in public interest but for personal interest.
Public Interest Litigation-Should be resorted to by a person genuinely interested in the protection of society-Personal interest cannot be enforced in the garb of public interest litigation-Entertainment of petitions satisfying personal grudge is abuse of process of the Court Duty of the court is to discourage such petitions.

HEADNOTE:
The petitioner filed a writ petition in this court by way of public interest litigation alleging that the respondents, West Bokaro Collieries and Tata Iron and Steel Company (TISCO) were polluting the river Bokaro by discharging surplus waste in the form of sludge/slurry as effluent from their washeries into river making the river water unfit for drinking and irrigation purposes thereby causing risk to the health of the people; the State of Bihar and the State Pollution Control Board have failed to take appropriate steps for prevention of the pollution and instead the State of Bihar has granted leases on payment of royalty to various persons for collection of slurry. Accordingly the petitioner prayed for directions to the respondents to take immediate steps prohibiting the pollution of the river and to take legal action against TISCO under the Water (Prevention and Control of Pollution) Act, 1974. The petitioner also claimed interim relief from this Court that he should be permitted to collect sludge/slurry flowing out of washeries of the respondents.

The respondents contested the petition denying the petitioner's allegations. Bihar State Pollution Board asserted that directions have been issued to the Bokaro Collieries to take effective steps for improving the quality of the effluent going into the river Bokaro and that the TISCO Company has been granted permission to discharge their effluents from their outlets in accordance with sections 25 and 26 of the 1974 Act. On behalf of TISCO and the Bokaro Collieries it was contended that all effective steps have been taken to prevent the pollution and they have complied with the instructions of the State Pollution Board.

By an order dated 13.12.1990, this Court dismissed the writ petition with costs.

Giving reasons for dismissal of the petition, this Court,

HELD: 1. Article 32 is designed for the enforcement of Fundamental Rights of a citizen by the Apex Court. It provides for an extra-ordinary remedy to safeguard the fundamental rights of a citizen. Right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Article 32 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life. A petition under Article 32 for the prevention of pollution is maintainable at the instance of affected persons or even by a group of social workers or journalists. But recourse to proceeding under Article 32 of the Constitution should be taken by person genuinely interested in the protection of society on behalf of the community. Public interest litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. If such petitions under Article 32 are entertained it would amount to abuse of process of the Court, preventing speedy remedy to other genuine petitioners from this Court. Personal interest cannot be enforced through the process of this Court under Article 32 of the Constitution in the garb of a public interest litigation. Public interest litigation contemplates legal proceeding for vindication or enforcement of fundamental rights of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A person invoking the jurisdiction of this Curt under Article 32 must approach this Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is duty of this Court to

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discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extra-ordinary jurisdiction of this Court for personal matters under the garb of the public interest litigation. [13C-H; 14A]

Bandhua Mukti Morcha v. Union of India, [1984] 2 SCR 67; Sachindanand Pandey v. State of West Begal, [1987] 2 SCC 295; Ramsharan Autyanuprasi & Anr. v. Union of India & Ors., [1989] Suppl. 1 SCC 251; Chetriya Pardushan Mukti Sangharsh Samiti v. State of U.P. & Ors., [1990] 4 SCC 449, referred to.

2. The present petition is not filed in public interest instead the petition has been made by the petitioner in his own interest. Infact there is intrinsic evidence in the petition itself that the primary purpose of

filing this petition is not to serve any public interest instead it is in self-interest. The petitioner has been purchasing slurry from the respondents for the last several years. With the passage of time he wanted more and more slurry but the Company refused to accept his request. He removed the Company's slurry in an unauthorised manner for which criminal cases are pending against him and his brother. Since the respondent company refused to sell additional slurry he entertained a grudge against the company and in order to feed fat his personal grudge he resorted to several proceedings against the company including the present one. The prayer for the interim relief made by the petitioner i.e. permitting him to arrest/collect sludge/slurry flowing out of the washeries of the respondents with a direction to the State of Bihar, its officers and other authorities for not preventing him from collecting the sludge/slurry and transporting the same also collecting the sludge/slurry and transporting the same clearly indicates that he is interested in collecting the slurry and transporting the same for the purposes of his business. Therefore, there is no good reason to accept the petitioner's allegation that the water of the river Bokaro is being polluted by the discharge of sludge or slurry into it form the washeries of the respondent-company. On the other hand it is evident from records that the State Pollution Control Board has taken effective steps to check the pollution. [14B;12F-G]

Kundori Labours Cooperative Society Ltd. & etc. etc. v. State of Bihar & Ors., AIR 1986 Patna 242; Bharat Cokin Coal Ltd. v. State of Bihar & Ors. [1990] 3 SCR 744= Judgments Today, vol. 3, 1990 SCC 533, referred to.

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (C) No. 381 of 1998.

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(Under Article 32 of the Constitution of India).

S.K. Sinha for the Petitioner.

D. Goburdhan, Ms. A. Subhashini, K.K. Lahiri, Ms. Lira Goswami and D.N. Misra for the Respondents.

The Judgement of the Court was delivered by

SINGH,J. We heard the arguments in detail on 13.12. 1990 and dismissed the petition with costs amounting to Rs. 5,000 with the direction that the reasons shall be delivered later on. We are, accordingly, delivering our reasons.

This petition is under Article 32 of the Constitution by Subhash Kumar for the issue of a writ or direction directing the director of Collieries, West Bokaro Collieries at Ghatotand, District Hazaribagh in the State of Bihar and the Tata from & Steel Co. Ltd. to stop forthwith discharge of slurry/sludge from its washeries at Ghatotand in the District of Hazaribagh into Bokaro river. This petition is by way of public interest litigation for preventing the pollution of the Bokaro river water from the sludge/slurry discharged form the washeries of the Tata Iron & Steel Co. Ltd. The petitioner has alleged that the Parliament has enacted the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as 'the Act') providing for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment of Board for the prevention and control of water pollution. Under the provisions of the Act the State Pollution Control Board constituted to carry out functions

prescribed under Section 17 of the Act which among other things provide that the Board shall inspect sewage or trade effluents and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data set up for the treatment of water and to lay down standards to be complied with by the persons while causing discharge of sewage or sullage. Section 24 of the Act provides that no person shall knowingly cause or permit any poisonous, noxious or polluting matter to enter into any stream or well, which may lead to a substantial aggravation of pollution. The petitioner has asserted that Tata Iron and Steel Co-respondent No.5 carries on mining operation in coal mines/washeries in the town of Jamshedpur. These coal mines and collieries are known as West Bokaro Collieries and the Collieries have two coal washeries where the coal after its extraction from the mines is brought and broken into graded pieces and there-

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after it is processed for the purpose of reducing its ash contents. A chemical process is carried out which is known as 'froth floatation process'. Under this process the graded coal is mixed with diesel oil, pine oil and many other chemical ingredients and thereafter it is washed with the lacs of gallons of water. The end water is washed coal with reduced quantity of ash content fit for high graded metallurgical process for the purposes of manufacture of steel. In the process of washing large quantity of water is discharged through pipes which carry the discharged water to storage ponds constructed for the purpose of retaining the slurry. Along with the discharged water, small particles of coal are carried away to the pond where the coal particles settle down on the surface of the pond, and the same is collected after the pond is de-watered. The coal particles which are carried away by the water is called the slurry which is ash free, it contains fine quality of coal which is used as fuel.

The petitioner has alleged that the surplus waste in the form of sludge/slurry is discharged as an effluent from the washeries into the Bokaro river which gets deposited in the bed of the river and it also gets settled on land including the petitioner's land bearing Plot No.170. He was further alleged that the sludge or slurry which gets deposited on the agricultural land, is absorbed by the land leaving on the top a fine carbonaceous product or film on the soil, which adversely affects the fertility of the land. The petitioner has further alleged that the effluent in the shape of slurry is flown into the Bokaro river which is carried out by the river water to the distant places polluting the river water as a result of which the river water is not fit for drinking purposes nor it is fit for irrigation purposes. The continuous discharge of slurry in heavy quantity by the Tata Iron & Steel Co. from its washeries posing risks to the health of people living in the surrounding areas and as a result of such discharge the problem of pure drinking water has became acute. The petitioner has asserted that inspite of several representations, the State of Bihar and State Pollution Control Board have failed to take any action against the Company instead they have permitted the pollution of the river water. He has further averred that the State of Bihar instead of taking any action against the Company has been granting leases on payment of royalty to various persons for the collection of slurry. He has, accordingly, claimed relief for issue of direction directing the respondents which include the State of Bihar, the Bihar Pollution

Control Board, Union of India and Tata Iron & Steel Co. to take immediate steps prohibiting the pollution of Bokaro river water from the discharge of slurry into the Bokaro river and to take further action under provisions of the Act against the Tata Iron & Steel Co.

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The respondents have contested the petition and counter-affidavits have been filed on behalf of the respondent Nos. 2, 4 and 5-State of Bihar, State Pollution Board, Directors of Collieries and Tata Iron & Steel Co. Ltd. In the counter-affidavits filed on behalf of the respondents, the petitioner's main allegation that the sludge/slurry is being discharged into the river Bokaro causing pollution to the water and the land and that the Bihar State Pollution Board has not taken steps to prevent the same is denied. In the counter-affidavit filed on behalf of the Bihar State Pollution Board it is asserted that the Tata Iron & Steel Co. operates open case and underground mining. The Company in accordance to Sections 25 and 26 of the Water (Prevention Control of Pollution) Act, 1974 applied for sanction from the Board of discharge their effluent from their outlets. The Board before granting sanction analysed their effluent which was being watched constantly and monitored to see that the discharges does not affect the water quality of the Bokaro river adversely. In order to prevent the pollution the Board issued direction to the Director of the Collieries to take effective steps for improving the quality of the effluent going into the Bokaro river. The State Pollution Board imposed conditions requiring the Company to construct two settling tanks for settlement of solids and rewashing the same. The Board directed for the regular samples being taken and tested for suspended solids and for the communication of the results of the tests to the Board each month. The State Board has asserted that the Company has constructed four ponds ensuring more storing capacity of effluent. The Pollution Board has been monitoring the effluent. It is further stated that on the receipt of the notice of the instant writ petition the Board carried out an inspection of the settling tanks regarding the treatment of the effluent from the washeries on 20th June, 1988. On inspection it was found that all the four settling tanks had already been completed and work for further strengthening of the embankment of the tanks was in progress, and there was no discharge of effluent from the washeries into river Bokaro except that there was negligible seepage from the embankment. It is further stated that the Board considered all the aspects and for further improvement it directed the management of the collieries for removal of the settle slurry from the tanks. The Board has directed that the washeries shall perform desludging of the settling tanks at regular intervals to achieve the proper required retention time for the separation of solids and to achieve discharge of effluents within the standards prescribed by the Board. It is further asserted that at present there is no discharge from any of the tanks of the Bokaro river and there is no question of pollution of the river water of affecting the fertility of land. In their affidavits files on behalf of the respondent-

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Nos. 4 and 5, they have also denied the allegations made in the petition. They have asserted that the effective steps have been taken to prevent the flow of the water discharge from the washeries into the river Bokaro. it is stated that infact river Bokaro remains dry during 9 months in a year

and the question of pollution of water by discharge of slurry into the river does not arise. However, the management of the washeries have constructed from different ponds to store the slurry. The slurry which settles in the pounds is collected for sale. The slurry contains highly carbonaceous materials and it is considered very valuable for the purpose of fuel as the ash contents are almost nil in the coal particles found in the slurry. Since, it has high market value, the Company would not like it to go in the river water. The Company has taken effective steps to ascertain that no slurry escapes from its ponds at the slurry is highly valuable. The Company has been following the directions issued by the State Pollution Control Board constituted under the 1974 Act.

On the facts as appearing from the pleadings and the specific averments contained in the counter-affidavit filed on behalf of the State Pollution Control Board of Bihar, prima facie we do not find any good reason to accept the petitioner's allegation that the water of the river Bokaro is being polluted by the discharged of sludge or slurry into it from the washeries of the respondent-company. On the other hand we find that the State Pollution Control Board has taken effective steps to check the pollution. We do not consider it necessary to delve into greater detail as the present petition does not appear to have been filed in public interest instead the petition has been made by the petitioner in his own interest.

On a perusal of the counter-affidavit filed on behalf of the respondent Nos. 4 and 5 it appears that the petitioner has been purchasing slurry from the respondent Nos. 4 and 5 for the last several years. With the passage of time he wanted more and more slurry, but the respondent-company refused to accept his request. The petitioner is an influential businessman, he had obtained a licence for coal trading, he tried to put pressure through various sources on the respondent-company for supplying him more quantity of slurry but when the Company refused to succumb to the pressure, he started harassing the Company. He removed the Company's slurry in an unauthorised manner for which a Criminal Case No., 173 of 1987 under Sections 379 and 411 of the Indian Penal Code read with Section 7 of the Essential Commodities Act was registered against the petitioner and Pradip Kumar his brother at Police Station Mandu, which is pending before-

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the Sub-Judge, Hazaribagh. One Shri Jugal Kishore Jayaswal also filed a criminal complaint under Section 379 and 411 of the IPC against the petitioner and his brother Pradip Kumar in the Court of Judicial Magistrate, First Class, Hazaribagh, which is also pending before the Court of Judicial Magistrate, 2nd Class Hazaribagh. The petitioner initiated several proceedings before the High Court of Patna under Article 226 of the constitution for permitting him to collect slurry from the Raiyati land. These petitions were dismissed on the ground of existence of dispute relating to the title of the land. The petitioner filed a writ petition C.W.J.C. No. 887 of 199o in the High Court of Patna for taking action against the Deputy Commissioner, Hazaribagh for implementing the Full Bench judgment of the Patna High Court in Kundori Labours Cooperative Society Ltd. & etc. etc. v. State of Bihar & Ors., AIR 1986 Patna 242 wherein it was held that the slurry was neither coal nor mineral instead it was an industrial waste of coal mine, not subject to the provisions of the Mines and Mineral (Regulation and Development) Act, 1957. Consequently the collection of

slurry which escaped from the washeries could be settled by the State Government with any person without obtaining the sanction of the Central Government. The petitioner has been contending before the High Court that the slurry which was discharged from washeries did not belong to the Company and he was entitled to collect the same. Since the respondent-company prevented the petitioner from collecting slurry from its land and as it further refused to sell any additional quantity of slurry to him, he entertained grudge against the respondent-company. In order to feed fat his personal grudge he has taken several proceedings against the respondent-company including the present proceedings. These facts are quite apparent from the pleadings of the parties and the documents placed before the Court. Infact,there is intrinsic evidence in the petition itself that the primary purpose of filling this petition is not to serve any public interest instead it is in self-interest as would be clear from the prayer made by the petitioner in the interim stay application. The petitioner claim interim relief from this Court permitting him to arrest/collect sludge/slurry flowing out of the washeries of the respondent Nos. 4 and 5 and with a direction to the State of Bihar, its officers and other authorities for not preventing him from collecting the sludge/slurry and transporting the same. The prayer for the interim relief made by the petitioner clearly indicates that he is interested in collecting the slurry and transporting the same for the purposes of his business. As already state a Full Bench of the Patna High Court held that the slurry was not coal and the provisions of the Mines and Mineral (Regulation and Development) Act, 1957 were not applicable, the State Government was tree to settle the same-

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and the Tata Steel & Iron Co. had no right to collect the slurry which escaped from its washeries. The respondent-company filed an appeal before this Court. During the pendency of the aforesaid appeal, the petitioner filed the present petition. The appeal preferred by the Tata Iron & Steel Co. Ltd. and Bharat Coking Coal Ltd. was allowed by this Court and judgment of Patna High Court was set aside. The judgment of this Court is reported in Judgments today Vol. 3 1990 SC 533 wherein it has been held that the slurry/coal deposited on any and continues to be coal and the State Government has no authority in law to deal with the same and the slurry deposited on the Company's land belongs to the Company and no other person had authority to collect the same.

Article 32 is designed for the enforcement of Fundamental Rights of a citizen by the Apex Court. It provides for an extraordinary procedure to safeguard the Fundamental Rights of a citizen. Right to live is a fundamental right under Art 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Art, 32 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life. A petition under Art. 32 for the prevention of pollution is maintainable at the instance of affected persons or even by a group of social workers or journalists. But recourse to preceeding under Art. 32 of the Constitution should be taken by a person genuinely interested in the protection of society on behalf of the community. Public interest litigation cannot be invoked by a person or body or person

to satisfy his or its personal grudge and enmity. if such petitions under Article 32, are entertained it would amount to abuse of process of the Court, preventing speedy remedy to other genuine petitioner from this Court. Personal interest cannot be enforced through the process of this Court under Art. 32 of the Constitution in the garb of a public interest litigation. Public interest litigation contemplates legal proceeding for vindication or enforcement of fundamental rights of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A person invoking the jurisdiction of this Court under Art. 32 must approach this Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is duty of this Court to discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extraordinary jurisdiction of this Court for personal matters under the garb-

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of the public interest litigation see Bandhua Mukti Morcha v. Union of India, [1984] 2 SCR 67; Pandey v. State of West Bengal, [1987] 2 SCC 295 at 331; Ramsharan Autyanuprasi & Anr. v. Union of India & Ors., [1989] Suppl. 1 SCC 251 and Chhetriya Pardushan Mukti Sangharsh Samiti v. State of U.P. & Ors., [1990] 4 SCC 449.

In view of the above discussion we are of the opinion that this petition has been filed not in any public interest but for the petitioner's personal interest and for these reasons we dismissed the same and directed that the petitioner shall pay Rs. 5,000 as costs. These costs are to be paid to the respondent Nos. 3,4 & 5.

T.N.A.

Petitions dismissed

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Item No. 05

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)

Appeal No. 06/2020
(I.A. No. 67/2020)
(I.A. No. 68/2020)

Bhudsen Rathore — Appellant(s)

Versus

Union of India & Ors. — Respondent(s)

Date of completion of hearing and reserving of order : 21.02.2022
Date of uploading of order on the website : 09.03.2022

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER

For Appellant (s): Mr. Saurabh Sharma, Adv.

For Respondent(s): Mr. Sachin K. Verma, Adv.
Ms. Parul Bhadoria, Adv.
Mr. Deepesh Joshi, Adv.
Mr. Om Shankar Shrivastava, Adv.

ORDER

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A. GROUND OF APPEAL

1. The appellant has challenged the grant of Environmental Clearance dated 20.03.2020 for expansion of from 17.50 MTPA to 25 MTPA which is situated in District Singrauli (Madhya Pradesh) and District Sonebhadra (Uttar Pradesh). The EIA is prepared on the basis of one season data collected from 15th March to 15th June, 2016. However, the terms of Reference for the preparation of the EIA report was issued by MoEF&CC by a letter dated 1st February, 2018. The Public Hearing was held on 8th February 2019 at Singrauli, Madhya Pradesh. The proposal came before the Expert Appraisal Committee for expansion of production capacity from 17.5 MTPA to 25 MTPA and expansion of mine area mine from 1752 Ha to 2390.722 Ha. The Perusal of the minutes of EAC meeting clearly shows that the project has been recommended without any application of mind and detailed discussion on the Project. The Appeal is been filed on the following among other issues:-

- Information provided by Project Proponent in Form 1 is false/misleading and deliberate suppression of material information.
- Submission of inadequate, deficient and incomplete EIA by the Project Proponent.
- Obsolete base line data used in ambient air quality data.
- False & misleading ambient air quality given in the EIA.
- EIA overlooks the data of Madhya Pradesh Pollution control Board on ambient air quality.
- The Project Proponent has used outdated Air Model for air modelling.
- The EAC has failed to look at the adverse impact of Blasting, Noise, Vibration and Air Pollution due to mining on Villages in Core Zone of the Dudhichua Mine.
- Impact of mining on Hydrology, modification of natural drainage and lack of detailed Water Balance not analysed.
- Issues in Public Hearing not duly scrutinized by the EAC.

- No Public Hearing was conducted in affected areas in Uttar Pradesh (District Sonebhadra).
- Public Hearing has been done on the basis of an incomplete EIA Report.
- Final forest clearance is yet to be obtained.
- No study on the existing flora and fauna in the study area.
- Cumulative impact assessment study and carrying capacity study have not been done.
- EAC failed to apply it's mind.

B. BRIEF FACTS

2. The brief facts giving rise to the appeal are that earlier, the project was granted Environmental Clearance vide letter dated 28th February, 2008 for 12.05 MTPA capacity in project area of 1752 ha. Subsequently, EC for the expansion of the project from 12.5 MTPA to 15.5 MTPA within the same project area was granted by the Ministry vide letter dated l0thDecember, 2008 based on the public hearing conducted in Sonebhadra U.P. on 10th October. 2006 and Singrauli, M.P. on 20th January, 2007. Ministry vide letter dated 01st February, 2018 has granted Terms of Reference (ToR) to the project for expansion of Dudhichua opencast coal Mine project from 15.5 MTPA to 25 MTPA in an area of 2390.722 ha located in Tehsil Waidhan, District Singrauli, M.P. and Tehsil Dudhi, District Sonebhdra, U.P. In the meantime, project proponent submitted the proposal of expansion from 15.5 MTPA to 17.5 MTPA in the existing area of 1752 ha as per the provisions contained in Para 7(ii) of the EIA Notification, 2006 based on Ministry's office Memorandum dared 15th September, 2017. Based on recommendation of EAC held on l3-14 December, 2018, Ministry granted expansion in capacity vide its letter dated 26th December, 2019.

3. Thereafter, the project proponent had submitted the proposal for expansion of 17.5 to 25 MTPA in an area of 2390.722 ha based on ToR granted on 01st February, 2018 to conduct public hearing for the project site in District

Singrauli (MP) and other terms and conditions therein. Accordingly, Public hearing for the project of 25 MTPA capacity in an ML area of 2390.722 ha was conducted on 8th February, 2019 at Virendra Community Hall, Dudhichua Sector- A Colony, P.O. Jayant, Singrauli, Madhya Pradesh. Issues related to pollution due to stored mine water, higher fluoride concentration, R & R Compensation, water pollution, air pollution due to transportation of coal, desiliting of ballia nallah, blasting during mining etc. were raised during Public Hearing. The proposal was considered and deliberated in detail by the sectoral (Thermal & Coal Mining Sector) in its 53rd meeting held on 20th February, 2020. The committee recommended the proposal for grant of Environment Clearance with specific conditions for environmental safeguards therein. Based on recommendations of the EAC, the said expansion project from 17.50 MTPA to 25.00 MTPA was accorded environmental clearance by the Ministry on 20th March, 2020.Thus this appeal.

C. SUMMARY OF THE PROJECT

4. Due to increase demand of power grade coal by Thermal Power stations, the Ministry of Coal has given target to NCL of 100 Mt for the year 2018-2019. So to increase the coal production from Dudhichua OC, it is proposed to increase the lease area and production from existing 15.50 MTPA to peak 25.00 MTPA in future. For obtaining Environmental Clearance from MoEF & CC as per EIA Notification-2006 for Dudhichua Expansion, a Final EIA-EMP Report has been prepared, as per TOR issued by MoEF & CC vide letter no. J-11015/381/2008-I.A.II (M) (M) dated 01st February, 2018 and Public Hearing details.

5. This is an expansion for existing Dudhichua opencast coal mining project of Northern Coalfields Limited. The proposed production capacity is to be enhanced to peak 25.00 MTPA coal with a corresponding peak OB removal of 125.00 Mm^3 per year. Ensuing the projected demand of coal for Thermal Power Plants in the country, it is necessary to expand the capacity of the

present Dudhichua Opencast Project. The demand on coal on NCL will increase to 116.50 Mt by the year 2019-20.

Location: The Dudhichua opencast project of Northern Coalfields Limited (NCL) is located in Singrauli Coalfields which is in Sonebhadra district of U.P. state and Singrauli district of M.P. state. It falls within the latitude.

24°07'15.54" N to 24°10'56.00" N and Longitude 82°39'49.18" E to 82°43'19.75" E (Topo-sheet No. 63L/12 of the Survey of India on 1:50000 (1976)). The nearest railway station, Shaktinagar is at a distance of about 5 km and approachable by all-weather metalled road. The project is at a distance of 63 km by road from Renukut in UP and 18 km from Waidhan in MP by Ranchi-Rewa highway.

D. DESCRIPTION OF THE MINE FIELD

Dudhichua Opencast Block stands out on a plateau above plains on its south-east part of Singarauli coalfield. The average elevation at the foot of the plateau in 325 m above MSL. The highest elevation reaches about 504 m. the plateau is defined by a steep escarpment (facing south-west) rising from the elevation of 320-430 m. the escarpment is characterized by thick growth of vegetation rolled-boulders and is dissected by numerous small seasonal streams. The area on the top of the plateau is undulating with elevation varying from 375-430 m with occasional high hills rising to 504 m.

Mineable reserves: The total mineable coal reserve available as on 01.04.2018 is 304.51 Mt alongwith 1440.92 Mm3 of OBR with average stripping ratio of 4.73 m3/t. there are Turra, pirewa Bottom and Purewa Top Seams. Dudhichua opencast Project has produced 254.62 Mt. of coal till 31st March, 2018.

Geology of Dudhichua block: The geological data given in this report are as per Geological Reports on Dudhichua Block prepared by CMPDI. There are three coal seams occurring in ascending order -viz Turra (11.30-24.35), Purewa Bottom (5.75-15.20m), Purewa Top (1 95-9.90m) proposed to be mined, The beds have a corresponding centripetal dip .The amount of dip in

general is about 2 to 3 degree However, higher dip of about 8'-13' have been observed in the eastern part and western part of the basin.

The grade based on GCV for Turra seam varies mainly from G-8 to G-12 and that for Purewa Top & Bottom seam from G-9 lo G-11. The overall grade varies mainly from GB to G11 and average product mix grade of all the three seams is G10.

E. MINING TECHNOLOGY & PROCESS DESCRIPTION

Dudhichua OCP has been working for last 34 years with combined system of mining viz' Dragline and shovel-dumper system. The existing system has been proposed to be continued with up-gradation of equipment size for achieving higher production level.

The OB removal will be done by dragline side-casting and shovel-dumper combination. The blasted material will be transported to internal dumps through dumper transport. The coal after blasting will be loaded and hauled to CHP by dumpers from where after crushing the ROM coal, it will be transported to silo point connected to MGR track through conveyor belts for loading into the wagon.

Programme of excavation: Dudhichua Expansion OCP has been planned to produce total 304.51 Mt coal & 1440.92 Mm3 O.B from 2018-19 to 17 yrs. The Expansion project has been planned for normative production of 20 Mtpa and peak production of 25 Mtpa. The calendar Plan of excavation is given in CH-II.

Mining Details: Stripping ratio (mineral in tonners to over burden in m3)-4.73 m3/t, Ultimate working depth-310 m, Present working depth of existing mine-218 m (as on 31.01.2018), Thickness of top soil is restricted to 3m only, over a major part of the area, Thickness of overburden varies 27.08 m-210.00m.

Mining Plan & mine Life: Height and width of the bench in coal seam: 10-15m and 45m. Height of the O.B bench for Dragline varies from 0m and cut

width is 75m. In case of Shovel-Dumper O B height is 15-18m and width is 57-63m. The slope of each bench is proposed as 700 in OB and 800 in coal. But overall running slope in working faces are is 15-18° and 35-40° at the time of closure of the mine. The estimated life of the project 17 Years from 2018-19.

Drilling & blasting operations: The blasting is required in all coal & OB benches for loosening the strata. Drills of 311 mm (4 nos), 250 mm (25 nos.) and 160 mm (12 nos.) have been provided. The amount of secondary blasting is about as 4 % of the total volume of explosives.

OB/Waste disposal techniques: The total volume of OB to be removed in expansion will be dumped internally and 134.00 Mm^3 has already been dumped in external dump and reclaimed technically and biologically.

F. PROPOSED SCHEDULE FOR APPROVAL & IMPLEMENTATION

The EPR has been approved by Coal India Board vide letter no. CIL:XI(D): 04112:2017:19615 dated 13th December, 2017. The proposed expansion target of 20.00 MTPA is likely to be achieved by 2020-21. The present proposal is for environmental clearance for a coal production from 15.50 MTPA to 25.00 MTPA.

G. INFRASTRUCTURE

1. Coal Handling Plant (CHP): Existing CHP of 10 Mtpa has already been constructed and is in operation/ Existing CHP broadly has the facilities of three number of receiving and crushing complex, two number of bunkers for storage and reclamation, two silos with rapid loading system and associated conveyor system.

The EPR for Dudhichua OCP for a rated capacity of 20 MTPA envisaged a separate new coal handling system of 10 MTPA capacity which comprising of 2 nos. of semi mobile Primary sizer and 2 Nos. secondary sizers of product size of (-) 100 mm two in each Section to be installed in East and West

Section coal with associated conveying and dispatch system has been envisaged. Total handling capacity of the CHP including existing and proposed will be 20 Mtpa, which will cater the target coal of 20 MTPA.

2. Workshop : At present Dudhichua Opencast project has a full-fledged Workshop and Project store having facilities to cater the repair and maintenance needs of HEMM, mining, electrical & mechanical equipment etc. deployed in Dudhichua OCP (10 Mtpa).

For expansion of the Project from 10 Mtpa to 20 Mtpa coal production, EPR has envisaged 52 nos. RD 100 T & 160 Nos. RD 190-210T. Existing RD 85 T and rd 120 T has been envisaged for replacement in equivalent numbers of RD 100T for coal transportation & RD 190-210 T for OB removal respectively.

3. Railway Siding : The crushed coal (-1 00) from the West section coal of Dudhichua OCP will be dispatched by PM/MGR through existing phase-II silo and East section coal of Dudhichhua OCP will be dispatched by PR/MGR through proposed silo. For East section coal of 5 Mtpa incremental 4 to 5 rakes of wagon will have to be loaded every day. The loading has been envisaged round the clock in all the three shifts as per day by one loading point with RLS @5500 TPH with 3000 T silo. The proposed silo will be installed near the existing phase-I silo and three additional lines will be envisaged for proposed Silo. The proposed line will be connected with existing MGR/PR line.

Necessary provisions for proposed interconnection and accommodation of full empty receiving and after load line has been made in EPR of Dudhichua OCP (20 Mtpa).

4. Power supply arrangement: Dudhichua OCP is getting power at 3-3KV by double circuit transmission line from 2X40 MVA, 132/33 KV Madhauli Substation of NCL and township is getting power from Nawanagar Substation of MPEB. There are three-sub-stations- in Dudhichua project viz OB West , sub-station, OB East sub-station and coal substation. The EPR envisaged the

installation of additional transformers in the existing Sub-stations to cater the need of expansion Project.

Considering the prevailing Practice in - NCL for OB outsourcing all the equipment used are diesel-driven Therefore no additional electrical power is required for diesel driven HEMM for OB outsourcing.

Existing CHP is getting power from 2x10 MVA coal sub-Station. At 20 Mtpa stage,CHP load will increase. A coal subs-station will be constructed with a capacity of 1X10 MVA to cope up with the additional toad of CHP. This CHP will get power from coal substations.

5. Other facilities: Existing service buildings shall remain in use for the proposed EPR. However, additional provision for expansion of GM office along with time and security office and boundary wall has been made in the office complex. Additional provision for fund for welfare buildings such as Post Office, Bank, Shopping Centre, Staff Rest House, School, Bus shed, Garage, Cycle Shed, Open Market, Community Centre/Kalyan Mandap, Stadium/Play ground with suitable boundary walls etc. has been made in colony area.

Risk of Technology Failure: Considering the geo-mining conditions of the block, the combined system of mining with dragline and shovel dumper combination is being used for, exploration of coal. This technology is a proven and tested technology. Hence the present technology used for opencast mining at Dudhichua Expn. OCP is very safe and no risk of technological failure.

11.3 Description of the environment

Topography, drainage & Climate:

Dudhichua Opencast Block stands out on a plateau above plains on its southeast part of Singrauli coalfield. The average elevation at the foot of the plateau is 325 m above MSL. The highest elevation reaches about 504 m. The

plateau is defined by a steep escarpment (facing south –west) rising from the elevation of 320-430m.

Drainage: The most important stream in around is Ballia Nalla. The drainage of the area is controlled by seasonal stream which discharge into Ballia Nalla, which ultimately drains into Govind Ballabh Pant Sagar in the south. Similarly, towards north, the drainage is through seasonal streams which ultimately join Bijul Nalla.

Climate: The climate of the area is tropical. The- summer months are severe and prevail from March to-June. Generally the minimum and maximum temperature during summer are 21°C and 48°C respectively' .The temperature in winter during the month of November to February varies between 4°C to 21°C. The average annual rainfall is about 1200 mm out of which about 88% precipitation is during rainy season from June to September only.

H. PROCEEDINGS BEFORE THE TRIBUNAL

6. The matter was taken up by this Tribunal and notices were issued to the Respondents. In compliance thereof, the respondents have filed their reply which is on record. We have heard learned counsel for the parties and perused the record. Before proceedings towards the contention raised by the parties, we are of the view to reproduce the order in challenge dated 20.03.2020, which is as follows:

> *"2. The Ministry of Environment, Forest and Climate Change has considered the proposal for Environment Clearance to the Expansion of Dudhichua Opencast Coal Mining Project from 17.5 to 25 MTPA of M/s Northern Coalfields Limited in mine lease area of 2390.722 ha located at Tehsil Waidhan District Singrauli (MP) and Tehsil Dudhi, District Sonebhadra (UP).*
>
> *3. The proposal was considered by the Expert Appraisal Committee (EAC) in the Ministry for Thermal & Coal Mining Sector in its 53rd meeting held during 20th February, 2020. The details of the project, as per the documents submitted by the project proponent, and also as informed during the meeting, are reported to be as under:-*

(i) The project area is covered under Survey of India Topo Sheet No G44W12 and is bounded by the geographical coordinates ranging from 24°9'12.23"N to 24°9'20.28"N and Longitude: 82°41'3.27"E to 82°40'2.3"E.

(ii) Coal linkage of the project is proposed for Basket linkage mine for pit head power station of NTPC, UPRVUNL in Singrauli Coalfields and Power station in Western/ Northern India through their own MGR system and other consumers by Public Railway.

(iii) Joint venture cartel has been formed- NIL.

(iv) Project does not fall in the Critically Polluted Area (CPA).

(v) Employment generation 3350 nos (as per EPR)

(vi) The project is reported to be beneficial in terms of: The project will be able to supply planned quantity of coal to pit head power stations of NTPC, UPRVUNL in Singrauli Coalfields and power stations in western/ Northern India through their own MGR system and other consumers by public railway system thus meeting the energy needs of the country.

(vii) ToR was granted by Ministry on 1st February, 2018.

(viii) Earlier, the environment clearance to the project was obtained under EIA Notification vide Ministry's letter No J-11015/381/2008-IA.II(M) dated:26/12/2019 for 17.5 MTPA in mine lease area of 1752 Ha.

(ix) Total mining lease area as per block allotment is 2390.722 Ha. Mining Plan (Including Progressive Mine Closure Plan) has been approved by the NCL board on 25.11.2017.

(x) The land usage pattern of the project is as follows:

Pre- mining land use details ***(Area in Ha.)***

Sr. No.	***Land Use***	***Within ML Area***	***Outside ML Area***	***Total***
1	Agricultural Land	806.913	-	806.913
2	Forest Land	1217.589	-	1217.589
3	Wasteland	-	-	-
4	Grazing Land	-	-	-
5	Surface Water Bodies	-	-	-
6	Settlements	-	-	-
7	Others (Government Land)	366.22	-	366.22
	Total Project Area	2390.722	-	2390.722

Post Mining

S. No.	Land use	Land use (ha)				
		Plantation	Water Body	Public Use	Undist urbed	Total
1	External OB Dump	152	-	-	-	152
2	Top Soil Dump	Top Soil has been used immediately in reclamation of dumps.				
3	Excavation	1316	324	-	-	1640
4	Roads	-	-	174	-	174
5	Built-up Area	-	-		-	
6	Green Belt	62.722	-	-	-	62.722
7	Undisturbed Area	164	-	-	-	164
8	Safety Zone Rationalization Area					
9	Diversion Nala / Canal	-	-	-	-	-
10	Water Body	-	-	-	-	-
11	Staff Colony	-	-	198	-	198
	Total Area	1694.722	324.00	372.00	-	2390.722

(xi) Total geological reserve reported in the mine lease area is 361.34 MT with 320.01 MT mineable reserves. Out of total mineable reserve of 320.01 MT, 288.009 MT are available for extraction. Percent of extraction is 90%.

(xii) 03 seams with thickness ranging from 1.95m — 25.75m are workable. Grade of coal is G-8 to G-12, stripping ratio 4.61 m^3/t, while gradient is 2^0 to 3^0.

(xiii)Method of mining operations envisages by Combination of Dragline and Shovel- Dumper method.

(xiv) Life of mine is 17 years.

(xv). The project has two external OB dumps in an area of 152 Ha with 90m height and 134 Mm^3 of OB. Two Internal OB dumps in an area of 1316 Ha with 1483.33 Mm^3 of OB are envisaged in the project.

(xvi) Total quarry area is 1640 Ha out of which backfilling done in 1316 Ha while final mine void will be created in an area of 324 Ha with a depth of 30m to 40m. Backfilled quarry area of 1316 Ha shall be reclaimed

with plantation, Final mine void will be converted into water body.

(xvii) Transportation of coal has been proposed by Rear bumpers in mine pit head, from surface to siding by Coal Handling Plant (CHP) and at sidings to loading by Silo.

(xviii) Reclamation Plan in an area of 1694.722 Ha, comprising of 152 Ha of external dump, 1316 Ha of internal dump and 62.722 Ha of green belt. In addition to this, an area of 164 Ha, included in the safety zone/rationalization area, has also been proposed for green belt development.

(xix) 1217.589 Ha of forest land has been reported to be involved in the project. Approval under the Forest (Conservation) Act, 1980 for diversion of forest land for non-forestry purposes has been obtained as follows:-

Area (Ha)	***Stage-1 FC issued vide letter no & date***	***Validity Period of FC***
555.00 (UP State)	*8-298/87-FC dated 30.07.1990*	*Valid Upto 30.07.2020*
194.78 (MP State)	*Letter No.8-13/93-FC (Vol-III) dated 17.11.2015*	*Valid Upto 17.11.2035*
The remaining forestland of 467.809Ha has Stage I clearance and Stage-II clearance of forest land is under process.		

(xx) No National Parks, Wildlife Sanctuaries and Eco-Sensitive Zones have been reported with 10 km boundary of the project.

(xxi) The ground water level has been reported to be varying between 1.18m (2017) to 21.50m (2019) during pre-monsoon and between 0.55m (2019) to 18.70m (2018) during post-monsoon. Total water requirement for the project is 8183m3/d.

(xxii) Application for obtaining the approval of the Central Ground Water Authority:- NOC granted vide NOC No. CHWA/NOC/MIN/ORIG/2019/6993 by CGWA.

(xxiii) Public nearing for the project of 25 MTPA capacity in an area of 2390.722 Ha was conducted on 08.02.2019 at Virendra Community Hall, Dudhichua Sector-A Colony,

Singrauli. Major issues raised in the public hearing and Appropriate action to address the issues raised in the Public Hearing have already been taken/proposed to be taken.

(xxiv) Consent to operate for the existing capacity was obtained from the State PCB on 29.01.2020 and is valid till 31.12.2020.

(xxv) Regular monitoring of ambient air quality is being carried out on fortnightly basis. The documented report is submitted to SPCB and also to MoEF&CC along with half yearly EC compliance report. In general, the results of ambient air quality monitoring data were found within prescribed limits except few aberrations which can be attributed to the specific local conditions during the day of sampling.

(xxvi) No court cases, violation cases are pending against the project of the PP.

(xxvii) The project does not involve violation of the EIA Notification, 2006 and amendment issued there under. The coal production from the mine was started from the year 1987 onwards.

The project involves 580 nos. *project affected families. R&R of the PAPs will be done as per R&R policy of Coal India Ltd.*

Total cost of the project is Rs.271837 lakhs. Cost of production is Rs. 850.27/- per tonne (2018-19), CSR cost is 2% of the avg. net profit of the company for three Immediate proceeding financial year or Rs.2 per tonne whichever is higher, R&R cost is Rs.29.09 crores.

Environment *management Cost is Rs. 16152.78 Lakhs (As per EPR).*

Consent to operate (CTO) was obtained from the State Pollution Control Board on 29.01.2020 and is valid till 31.12.2020.

A. Specific Conditions: -

i. *Validity of EC is life of the mine or 30 years whichever is earlier as per EIA Notification, 2006.*

ii. *The project proponent shall obtain Consent to establish from the State Pollution Control Boards for the proposed peak capacity of 20 MTPA (Normative)/ 25 MTPA(Peak) prior to commencement of the increased production.*

iii. *Third party monitoring (by NEERI/CIMFR/IIT) for air quality shall be carried out at identified locations, both ambient and the process area, to arrive at impact of the proposed expansion. The results along with the recommendation shall be presented before the EAC to assess the efficacy and adequacy of pollution control measures.*

iv. *Transportation of coal from Coal Handling Plant shall be through covered trucks.*

v. *To control the production of dust at source, the crusher and in-pit belt conveyors shall be provided with mist type sprinklers.*

vi. *Mitigating measures shall be undertaken to control dust and other fugitive emissions all along the roads by providing sufficient water sprinklers. Adequate corrective measures shall be undertaken to control dust emissions, which would include mechanized sweeping, water sprinkling/mist spraying on haul roads and loading sites, long range misting/fogging arrangement, wind barrier wall and vertical greenery system, green belt, dust suppression arrangement at loading and unloading points, etc.*

vii. *Continuous monitoring of occupational safety and other health hazards, and the corrective actions need to be ensured.*

viii. *Persons of nearby villages shall be given training on livelihood and skill development to make them employable.*

ix. *Thick green belt of adequate width at the final boundary in the down wind direction of the project site shall be developed to mitigate/check the dust pollution.*

x. *Mechanism for treating stored mine water shall be developed to avoid any ground and surface water contamination*

xi. *Mining shall be carried out only by surface miners for the expansion project and silo loading through in-pit conveyor should be installed to avoid road transportation* in 2 years.

xii. *Ballia, Bijul and other Nallahs linked with this project shall be*

cleaned quarterly to avoid deposition of silts.

xiii. Efforts shall be made for utilizing alternate sources of surface water, abandoned mines or else whatsoever and thus minimizing the dependability on a single source.

xiv. The company shall obtain approval of CGWA for use of groundwater for mining operations at its enhanced capacity of 20 MTPA (Normative)/ 25 MTPA(Peak).

xv. Continuous monitoring of occupational safety and other health hazards, and the corrective actions need to be ensured.

xvi. A third party assessment of EC compliance shall be undertaken once in three years through agency like ICFRI /NEERI/IIT or any other expert agency identified by the Ministry.

xvii. Active OB dump should not be kept barren/open and should be covered by temporary grass to avoid air born of particles

xviii. Permission of diversion of nallah from concerned statutory authority (if any)

xix. Compliance of the non-compliance/partial compliance conditions certified by Regional Office, Bhopal vide its Letter No. 3-22/2009(ENV)/807 dated 24th October, 2018. The PP shall take all the mitigation measures and the Action taken report shall be submit the Regional office of the MoEFCC.

xx. Project proponent to plant 150,000 nos. of native trees with broad leaves along the villages namely Dudhichua, Chilkatand, Karwari and Madhauli in three years and along transportation route to prevent the effect of air pollution. After completion of tree plantation, number of trees shall be duly endorsed from District Forest Officer.

xxi. The activities and fund provisions for CER shall be made as per the guidelines issued by the ministry regarding CER on 1st May, 2018,

xxii. Project Proponent shall obtain blasting permission from DGMS for conducting mining operation near villages and also explore deployment of rock breakers of suitable capacity in the project to avoid blasting very near to villages. There shall be no damages caused to habitation/structures due to blasting activity.

xxiii. The Project Proponent shall complies with all the statutory requirements and judgment of Hon'ble

Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors. State Government shall ensure that the entire compensation levied, if any, for illegal ilning paid by the Project Proponent through their respective Department in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.

xxiv. *Project Proponent shall obtain the necessary prior permission from the Central Ground Water Authority (CGWA) in case of intersecting the Ground water table. The intersecting ground water table can only be commence after conducting detailed hydrogeological study and necessary permission from the CGWA, The Report on six monthly basis on changes in Ground water level and quality shall be submitted to the Regional Office of the Ministry, CGWA and State Pollution Control Board*

xxv. *Proponent shall appoint an Occupational health Specialist for Regular and Periodical medical examination of the workers engaged in the Project and maintain records accordingly; also Occupational health check-ups for workers having some ailments like BP, diabetes, habitual smoking, etc. shall be undertaken once in six months and necessary remedial/preventive measures taken accordingly. The Recommendations of National Institute for ensuring good occupational environment for mine workers shall be implemented; the prevention measure for burns, malaria and provision of antisnake venom including all other paramedical safeguards may be ensured before initiating the mining activities.*

xxvi. *Probject Proponent shall follow the mitigation measures provided in Office Memorandum No. Z-11013/57/2014-IA.II (M), dated 29th October, 2014, titled "Impact of mining activities on Habitations-issues related to the mining Projects wherein Habitations and villages are the part of mine lease areas or Habitations and villages are surrounded by the mine lease area".*

xxvii. *The illumination and sound at night at project sites*

disturb the villages in respect of both human and animal population. Consequent sleeping disorders and stress may affect the health in the villages located close to mining operations. Habitations have a right for darkness and minimal noise levels at night. PPs must ensure that the biological clock of the villages is not disturbed; by orienting the floodlights/ masks away from the villagers and keeping the noise levels well within the prescribed limits for day light/night hours.

xxviii. *The project proponent shall take all precautionary measures during mining operation for conservation and protection of endangered fauna, if any, spotted in the study area. Action plan for conservation of flora and fauna shall be prepared and implemented in consultation with the State Forest and Wildlife Department. A copy of action plan shall be submitted to the Ministry of Environment, Forest and Climate Change and its Regional Office.*

xxix. *Hon'ble Supreme Court in an Writ Petition(s) Civil No. 114/2014, Common Cause vs Union of India & Ors vide its judgement dated 8th January, 2020 has directed the Union of India to impose a condition in the mining lease and a similar condition in the environmental clearance and the mining plan to the effect that the mining lease folders shall, after Ceasing mining operations, undertake regrassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. Compliance of this condition after the mining g activity is over at the cost of the mining lease holders/Project Proponent". The implementation report of the above said condition shall be sent to the Regional Office of the MoEFCC.*

xxx. *Conservation measures and future strategy proposed in Comprehensive Hydro geological Report shall be complied by project proponent.*

xxxi. *PP shall comply all the mitigation measures and restoration strategies recommended by IIT (ISM) Dhanbad, i.e, for Catchment area and channel treatment, Habitat improvement through enrichment plantation, a thick green belt (30 m width)*

along the outer periphery of the OCP etc given in study or IRR

B. Additional Specific as the area falls under Severely Polluted Area (SPAs)

xxxii. *CTE/CTO for the project shall be obtained from the SPCB as required under the Air (Prevention and Control) of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) act, 1974 and the SPCB shall follow the mechanism/protocol issued by the Ministry vide letter no. Q-16017/38/20-18-CPA dated 24th December, 2019 while issuing the CTE/CTO for the project, for improvement of environmental quality in the area.*

xxxiii. *The green belt of at least 5-10 m width shall be developed in more than 40% (in place of EAC recommended 33%) of the total project area, mainly along the plant periphery, in downward wind direction, and along road sides etc. Selection of plant species shall be as per the CPCB guidelines in consultation with the State Forest Department.*

xxxiv. *In addition, the project proponent shall develop greenbelt outside the plant premises such as avenue plantation, plantation in vacant areas, social forestry etc.*

xxxv. *Monitoring of compliance of EC conditions may be submitted with third party audit every year.*

xxxvi. *The percentage the CER may be atleast 1.5 times the amount given in the OM dated 01 May, 2018 recommended by the EAC and item-wise details along with time bound action plan shall be prepared and submitted to the Ministry's Regional Office.*

C. General Conditions

(a) Statutory compliance

(i) *The project proponent shall obtain forest clearance under the provisions of Forest (Conservation) Act, 1986, in case of the diversion of forest land for non-forest purpose involved in the project.*

(ii) *The project proponent shall obtain clearance from the National Board for Wildlife, if applicable.*

(iii) *The project proponent shall prepare a Site-Specific Conservation Plan / Wildlife Management Plan and*

approved by the Chief Wildlife Warden. The recommendations of the approved Site-Specific Conservation Plan/ Wildlife Management Plan shall be implemented in consultation with the State Forest Department. The implementation report shall be furnished along with the six-monthly compliance report (in case of the presence of schedule-I species in the study area).

(iv) The project proponent shall obtain Consent to Establish/ Operate under the provisions of Air (Prevention & Control of Pollution) Act, 1981 and the Water (Prevention & Control of Pollution) Act, 1974 from the concerned State pollution Control Board/ Committee.

(v) The project proponent shall obtain the necessary permission from the Central Ground Water Authority.

(vi) Solid/ hazardous waste generated in the mines needs to addressed in accordance to the Solid Waste Management Rules, 2016/ Hazardous & Other Waste Management Rules, 2016

(b) Air quality monitoring and preservation

(i) Continuous ambient air quality monitoring stations as prescribed in the statue be established in the core zone as well as in the buffer zone for monitoring of pollutants, namely PM10, PM,;, SO, and NON. Location of the stations shall be decided based on the meteorological data, topographical features and environmentally and ecologically sensitive targets in consultation with the State Pollution Control Board. Online ambient air quality monitoring stations may also be installed in addition to the regular monitoring stations as per the requirement and/ or in consultation with the SPCB. Monitoring of heavy metals such as Hg, As, Ni, Cd, Cr, etc to be carried out at least once in six months.

(ii) The Ambient Air Quality monitoring in the core zone shall be carried out to ensure the Coal Industry Standards notified vide GSR 742 (E) dated 25th September, 2000 and as amended from time to time by the Central Pollution Control Board. Data on ambient air quality and heavy metals such as Hg, As, Ni, Cd, Cr and other monitoring data shall be regularly reported to the Ministry/ Regional Office and to the CPCB/ SPCB.

(iii) *Transportation of coal, to the extent permitted by road. shall be carried out by covered trucks/conveyors. Effective control measures such as regular water/mist sprinkling/rain gun etc shall be carried out in critical areas prone to air pollution (with higher values of PMio/PM2.5) such as haul road, loading/unloading and transfer points. Fugitive dust emissions from all sources shall be controlled regularly. It shall be ensured that the Ambient Air Quality parameters conform to the norms prescribed by the Central State Pollution Control Board.*

(iv) *The transportation of coal shall be carried out as per the provisions and route envisaged in the approved Mining Plan or environment monitoring plan. Transportation of the coal through the existing road passing through any village shall be avoided. In case, it is proposed to construct a 'bypass' road, it should be so constructed so that the impact of sound, dust and accidents could be appropriately mitigated.*

(v) *Vehicular emissions shall be kept under control and regularly monitored. All the vehicles engaged in mining and allied activities shall operate only after obtaining "PUC" certificate from the authorized pollution testing centres.*

(vi) *Coal stock pile/crusher/feeder and breaker material transfer points shall invariably be provided with dust suppression system. Belt-conveyors shall be fully covered to avoid air borne dust. Side cladding all along the conveyor gantry should be made to avoid air borne dust. Drills shall be wet operated or fitted with dust extractors.*

(vii) *Coal handling plant shall be operated with effective control measures w.r.t. various environmental parameters. Environmental friendly sustainable technology/should be implemented for mitigating such parameters*

(c) Water Quality monitoring and preservation

(i) *The effluent discharge (mine waste water, workshop effluent) shall be monitored in terms of the parameters notified under the Water Act, 1974 Coal Industry Standards vide GSR 742 (E) dated 25th September, 2000 and as amended from time to time by the Central Pollution Control Board.*

(ii) *The monitoring data shall be uploaded on the company's website and displayed at the project site at a suitable location. The circular No.J-20012/1/2006-1A.11 (M) dated 27th May, 2009 issued by Ministry of Environment, Forest and Climate Change shall also be referred in this regard for its compliance.*

(iii) *Regular monitoring of ground water level and quality shall be carried out in and around the mine lease area by establishing a network of existing wells and constructing new piezometers during the mining operations. The monitoring of ground water levels shall be carried out four times a year i.e. pre-monsoon, monsoon, post-monsoon and winter. The ground water quality shall be monitored once a year, and the data thus collected shall be sent regularly to MOEFCC/RO.*

(iv) *Monitoring of water quality upstream and downstream of water bodies shall be carried out once in six months and record of monitoring data shall be maintained and submitted to the Ministry of Environment, Forest and Climate Change/Regional Office.*

(v) *Ground water, excluding mine water, shall not be used for mining operations. Rainwater harvesting shall be implemented for conservation and augmentation of ground water resources.*

(vi) *Catch and/or garland drains and siltation ponds in adequate numbers and appropriate size shall be constructed around the mine working, coal heaps & OB dumps to prevent run off of water and flow of sediments directly into the river and water bodies. Further, dump material shall be properly consolidated/ compacted and accumulation of water over dumps shall be avoided by providing adequate channels for flow of silt into the drains. The drains/ ponds so constructed shall be regularly de-silted particularly before onset of monsoon and maintained properly. Sump capacity should provide adequate retention period to allow proper settling of silt material. The water so collected in the sump shall be utilised for dust suppression and green belt development and other industrial use. Dimension of the retaining wall*

constructed, if any, at the toe of the OB dumps within the mine to check run-off and siltation should be based on the rainfall data. The plantation of native species to be made between toe of the dump and adjacent field/habitation/water bodies.

(vii) Adequate groundwater recharge measures shall be taken up for augmentation of ground water. The project authorities shall meet water requirement of nearby village(s) after due treatment conforming to the specific requirement (standards).

(viii) Industrial waste water generated from CHP, workshop and other waste water, shall be properly collected and treated so as to conform to the standards prescribed under the standards prescribed under Water Act 1974 and Environment (Protection) Act, 1986 and the Rules made there under, and as amended from time to time. Adequate ETP /STP needs to be provided.

(ix) The water pumped out from the mine, after siltation, shall be utilized for industrial purpose viz. watering the mine area, roads, green belt development etc. The drains shall be regularly desilted particularly after monsoon and maintained properly.

(x) The surface drainage plan including surface water conservation plan for the area of influence affected by the said mining operations, considering the presence of river/rivulet/pond/lake etc. shall be prepared and implemented by the project proponent. The surface drainage plan and/or any diversion of natural water courses shall be as per the approved Mining Plan/EIA/EMP report and with due approval of the concerned State/GoI Authority. The construction of embankment to prevent any danger against inrush of surface water into the mine should be as per the approved Mining Plan and as per the permission of DGMS or any other authority as prescribed by the law.

(xi) The project proponent shall take all precautionary measures to ensure riverine/riparian ecosystem in and around the coal mine up to a distance of 5 km. A rivarine/riparian ecosystem conservation and management plan should be prepared and implemented

in consultation with the irrigation / water resource department in the state government.

(d) Noise and Vibration monitoring and prevention

i. *Adequate measures shall be taken for control of noise levels as per Noise Pollution Rules, 2016 in the work environment. Workers engaged in blasting and drilling operations, operation of HEMM, etc shall be provided with personal protective equipments (PPE) like ear plugs/muffs in conformity with the prescribed norms and guidelines in this regard. Adequate awareness programme for users to be conducted. Progress in usage of such accessories to be monitored.*

ii. *Controlled blasting techniques shall be practiced in order to mitigate ground vibrations, fly rocks, noise and air blast etc., as per the guidelines prescribed by the DGMS. The noise level survey shall be carried out as per the prescribed guidelines to assess noise exposure of the workmen at vulnerable points in the mine premises, and report in this regard shall be submitted to the Ministry/RO on six-monthly basis.*

(e) Mining Plan

i. *Mining shall be carried out under strict adherence to provisions of the Mines Act 1952 and subordinate legislations made there-under as applicable.*

ii. *Mining shall be carried out as per the approved mining plan(including Mine Closure Plan) abiding by mining laws related to coal mining and the relevant circulars issued by Directorate General Mines Safety (DGMS).*

iii. *No mining shall be carried out in forest land without obtaining Forestry Clearance as per Forest (Conservation) Act, 1980.*

iv. *Efforts should be made to reduce energy and fuel consumption by conservation, efficiency improvements and use of renewable energy.*

(f) Land reclamation

i. *Digital Survey of entire lease hold area/core zone using Satellite Remote Sensing survey shall be carried out at least once in three years for monitoring land use pattern and report in 1:50,000 scale or as notified by Ministry of Environment, Forest and Climate Change(MOEFCC) from time to time shall be submitted to MoEF&CC/Regional Office (RO).*

ii. *The final mine void depth should preferably be as per the approved Mine Closure Plan, and in case it exceeds 40 m, adequate engineering interventions shall be provided for sustenance of aquatic life therein. The remaining area shall be backfilled and covered with thick and alive top soil. Post-mining land be rendered usable for agricultural/forestry purposes and shall be diverted. Further action will be treated as specified in the guidelines for Preparation of Mine Closure Plan issued by the Ministry of Coal dated 27th August, 2009 and subsequent amendments.*

iii. *The entire excavated area, backfilling, external OB dumping (including top soil) and afforestation plan shall be in conformity with the "during mining"/"post mining" land-use pattern, which is an integral part of the approved Mining Plan and the EIA/EMP submitted to this Ministry. Progressive compliance status vis-a- vis the post mining land use pattern shall be submitted to the MOEFCC/RO.*

iv. *Fly ash shall be used for external dump of overburden, backfilling or stowing of mine as per provisions contained in clause (i) and (ii) of subparagraph (8) of fly ash notification issued vide SO 2804 (E) dated 3rd November, 2009 as amended from time to time. Efforts shall be made to utilize gypsum generated from Flue Gas Desulfurization (FGD), if any, along with fly ash for external dump of overburden, backfilling of mines. Compliance report shall be submitted to Regional Office of MoEF&CC, CPCB and SPCB.*

v. *Further, it may be ensured that as per the time schedule specified in mine closure plan it should remain live till the point of utilization. The topsoil shall temporarily be stored at earmarked site(s) only and shall not be kept unutilized. The top soil shall be used for land reclamation and plantation purposes. Active OB dumps shall be stabilised with native grass species to prevent erosion and surface run off The other overburden dumps shall be vegetated with native flora species. The excavated area shall be backfilled and afforested in line with the approved Mine Closure Plan. Monitoring and management of rehabilitated areas shall continue until the vegetation becomes self-sustaining. Compliance status shall be submitted to the Ministry of Environment, Forest and Climate Change/ Regional Office.*

vi. *The project proponent shall make necessary alternative arrangements, if grazing land is involved in core zone, in consultation with the State government to provide alternate areas for livestock grazing, if any. In this context, the project proponent shall implement the directions of Hon'ble Supreme Court with regard to acquiring grazing land.*

g. Green Belt

i. *The project proponent shall take all precautionary measures during mining operation for conservation and protection of endangered/endemic flora/fauna, if any, spotted/reported in the study area. The Action plan in this regard, if any, shall be prepared and implemented in consultation with the State Forest and Wildlife Department.*

ii. *Greenbelt consisting of 3-tier plantation of width not less than 7.5 m shall be developed all along the mine lease area as soon as possible. The green belt comprising a mix of native species (endemic species should be given priority) shall be developed all along the major approach/ coal transportation roads.*

h. Public hearing and Human Health Issues

i. *Adequate illumination shall be ensured in all mine locations (as per DGMS standards) and monitored weekly. The report on the same shall be submitted to this ministry & it's RO on six-monthly basis.*

ii. *The project proponent shall undertake occupational health survey for initial and periodical medical examination of the personnel engaged in the project and maintain records accordingly as per the provisions of the Mines Rules, 1955 and DGMS circulars. Besides regular periodic health check-up, 20% of the personnel identified from workforce engaged in active mining operations shall be subjected to health check-up for occupational diseases and hearing impairment, if any, as amended time to time.*

iii. *Personnel (including outsourced employees) working in core zone shall wear protective respiratory devices and shall also be provided with adequate training and information on safety and health aspects.*

iv. *Implementation of the action plan on the issues raised during the public hearing shall be ensured. The project proponent shall undertake all the tasks/measures as per the action plan submitted with budgetary provisions during the public hearing.*

Land oustees shall be compensated as per the norms laid down in the R&R policy of the company/State Government/Central Government, as applicable.

v. *The project proponent shall follow the mitigation measures provided in this Ministry's OM No.Z-11013/5712014-IA.I1 (M) dated 29th October, 2014, titled 'Impact of mining activities on habitations-issues related to the mining projects wherein habitations and villages are the part of mine lease areas or habitations and villages are surrounded by the mine lease area.*

I. Corporate Environment Responsibility

i. *The project proponent shall comply with the provisions contained in this Ministry's OM vide F.No.22-65/2017-IA.III dated 151 May 2018, as applicable, regarding Corporate Environment Responsibility.*

ii. *The company shall have a well laid down environmental policy duly approve by the Board of Directors. The environmental policy should prescribe for standard operating procedures to have proper checks and balances and to bring into focus any infringements/deviation/violation of the environmental/forest/wildlife norms/conditions. The company shall have defined system of reporting infringements/deviation/violation of the environmental/forest/wildlife norms/ conditions and/or shareholders/stakeholders.*

iii. *A separate Environmental Cell both at the project and company head quarter level, with qualified personnel shall be set up under the control of senior Executive, who will directly to the head of the organization.*

iv. *Action plan for implementing EMP and environmental conditions along with responsibility matrix of the company shall be prepared and shall be duly approved by competent authority. The year wise funds earmarked for environmental protection measures shall be kept in separate account and not to be diverted for any other purpose. Year wise progress of implementation of action plan shall be reported to the Ministry/Regional Office along with the Six Monthly Compliance Report.*

v. *Self environmental audit shall be conducted annually. Every three years third party environmental audit shall be carried out.*

j Miscellaneous

i. *The project proponent shall make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the District or State, of which one shall be in the vernacular language within seven days and in addition this shall also be displayed in the project proponent's website permanently*

ii. *The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.*

iii. *The project proponent shall upload the status of compliance of the stipulated environment clearance conditions, including results of monitored data on their website and update the same on half-yearly basis.*

iv. *The project proponent shall monitor the criteria pollutants level namely; PMio, SO2, NOx (ambient levels) or critical sectoral parameters, indicated for the projects and display the same at a convenient location for disclosure to the public and put on the website of the company.*

v. *The project proponent shall submit six-monthly reports on the status of the compliance of the stipulated environmental conditions on the website of the ministry of Environment, Forest and Climate Change at environment clearance portal.*

vi. *The project proponent shall follow the mitigation measures provided in this Ministry's OM No.Z-11013/5712014-IA.11 (M) dated 29th October, 2014, titled 'Impact of mining activities on habitations-issues related to the mining projects wherein habitations and villages are the part of mine lease areas or habitations and villages are surrounded by the mine lease area.*

vii. *The project proponent shall submit the environmental statement for each financial year in Form-V to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently and put on the website of the company.*

viii. *The project authorities shall inform to the Regional Office of the MOEFCC regarding commencement of mining operations.*

ix. *The project authorities must strictly adhere to the stipulations made by the State Pollution Control Board and the State Government.*

x. *The project proponent shall abide by all the commitments and recommendations made in the EIA/EMP report, commitment made during Public Hearing and also that during their presentation to the Expert Appraisal Committee.*

xi. *No further expansion or modifications in the plant shall be carried out without prior approval of the Ministry of Environment, Forests and Climate Change.*

xii. *Concealing factual data or submission of false/fabricated data may result in revocation of this environmental clearance and attract action under the provisions of Environment (Protection) Act, 1986.*

xiii. *The Ministry may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.*

xiv. *The Ministry reserves the right to stipulate additional conditions if found necessary. The Company in a time bound manner shall implement these conditions.*

xv. *The Regional Office of this Ministry shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data / information/ monitoring reports.*

xx.....xx.....xx

I. VERSION OF THE APPELLANT

7. The Appellant has contended that effect of heavy and massive industrialisation which has happened in the project area, environmental and social impacts have been seen in loss of land, livelihoods, agricultural crops, houses, health impacts and air and water impact and these facts were before the EAC and MoEF & CC when the present project proponent came before him for the consideration of both granting of EoR and grant of EC, however, the prevailing situation were not considered by the concerned Committee and at the stage of screening, scoping, public consultation and appraisal all these facts were not duly considered. It is further contended that

applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. The EAC and MoEF & CC have not considered the severely polluted state of project area and the judgement of the Tribunal dated 12.09.2011 in ***Sarpanch, Grampanchayat Tiroda v. The Ministry of Environment and Forests (Appeal No. 3 of 2011)***.

> *"This case involved the grant of an EC to the project proponent for conducting mining operations at Tiroda. Here the cumulative effect of four proposed projects was not properly considered. The Hon'ble Tribunal expressed the importance of a Cumulative Impact assessment as follows:*
>
> > *"Unfortunately, the cumulative effect of these four proposed projects was not considered to be of significant in causing environmental pollution in a small area. It appears an impression is sought to be created that there was only one application of Tiroda mine and at that time the Redi mine was not in operation. When number of mines are sought to be considered in a small area of Sawantwadi Taluk, the EAC was expected to examine various aspects such as the cumulative impact of Air, Water, Noise Flora, Fauna and Socio-economic aspects in view of large number of transport vehicles, plants and machinery, etc. that would be operating in the area. It would have been appropriate, if a cumulative impact study was undertaken to take care of all existing/proposed mines within 10 km of the present project site apart from Redi mine, if any. Therefore, we are of the opinion that these aspects were not properly assessed and examined scientifically and therefore, the EIA report requires to be re-examined afresh. Thus, the EIA report suffers from incorrect and insufficient data which pertains to a period much prior to grant of TOR, therefore, the EIA report cannot be said to be sufficient for the purpose of recommending grant of EC."*
>
> *d. The importance of a cumulative impact assessment was also reiterated by this Hon'ble Tribunal in* ***T.Murgunandam vs. Ministry of Environment & Forests & Ors [Appeal No. 50 of 2012]*** *and the*

Hon''ble Supreme Court in the case of ***Alaknanda Hydro Power Company Ltd. v. Anuj Joshi and Ors****. reported in* ***(2014) 1 SCC 769 Para 50.***

e. In its Judgment dated 27.05.2021 in ***Appeal No. 46 of 2016 (SZ) titled Uma Maheshwar Dahagama vs Union of India & Ors.,*** *this Hon'ble Tribunal has observed in its para 29 as follows:-*

"29.This Tribunal had considered the necessity of Cumulative Impact Assessment Study and observed as follows:

....Our effort in this case is to understand what Cumulative Impact Assessment Study is. An enquiring mind would start with the existing law as well as scientific literature and it might be found in persuasive precedents available in the domestic law/literature on closely related topics and at a time in persuasive foreign decision/literature which may show how other jurisdiction have resolved the problem. The value of foreign judgment depends upon the persuasive force of their reasoning. Principles of sustainable development and the precautionary principle as envisaged in the Section 20 of NGT Act, 2010 have been developed in international law but have been domesticated into national laws throughout the world and so in India. Thus the knowledge on the subject can be borrowed with rather a free disregard for political boundaries and jurisdictional boundaries i.e. from all sources Indian or Foreign for bettering our understanding.

41. The European Commission in its guidelines for Assessment of indirect and Cumulative impacts as well as impact interactions defines Cumulative Impact as "Impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the project". CEAA guidelines give similar definition of Cumulative effects: these are changes to the environment that are caused by an action in combination with other past, present and future human actions. The U.S Environmental Protection Agency defines it as "the combined incremental effect on human activity". These definitions are in no way conflicting with the concept of

Cumulative Impact Assessment Study, the Project Proponent holds to be correct, as revealed from its submissions. Thus, the Cumulative Impact as the term indicates is not the impact of any project in isolation but it is a total impact resulting from the interaction of the project with other project activities around it- past, present and those to come up in future. It is a comprehensive view of the impacts resulting from all the projects- past, present or planned ones on the environment. Cumulative Impact may be same or different and those arising out of individual activities and tend to be larger, long lasting and spread over a greater area within the individual impact. Such studies are therefore commonly expected to:

1. Assess effects over a larger area that may cross jurisdiction boundaries;

2. Assess effects during a longer period of time into the past and future;

3. Consider effects on other eco-system components due to interactions with other actions, and not just the effect of the single action under review ;

4. Include other past, existing and future (reasonably foreseeable) action; and

5. Evaluate significant effect in consideration of other than just local and direct effects.

42. In the cases, Bombay Dyeing & Mfg. Co. Ltd. Vs. Bombay Environmental Action Group and Ors. (AIR 2006 SC1489) and T.N. Godavarman Thirumulpad Vs. Union of India and Ors. (2008(2) SCC 222) the Hon" ble Apex Court referred to the Principle of sustainable development and precautionary principle and stipulated the need to balance environmental concerns with those of developmental requirements. In no way the Hon" ble Apex Court discouraged the Cumulative Impact Assessment Study. This Tribunal in fact saw the need for Cumulative Impact Assessment Study in the areas where numerous projects were found located. Importance of Cumulative Impact Assessment Study was thus expressed by the Tribunal in Sarpanch, Grampanchayat case (Sarpanch, Grampanchayat Tiroda vs. MoEF: Appeal No. 3 of 2011) vide order dated

12.09.2011 in following words; "Unfortunately, the cumulative effect of these four proposed projects was not considered to be of significance in causing environmental pollution in a small area. It appears an impression is sought to be created that there was only one application of Tiroda mine and at that time the Redi mine was not in operation. When number of mines are sought to be considered in a small area of Sawantwadi Taluk, the EAC was 34 expected to examine various aspects such as the cumulative impact of Air, Water, Noise, Flora Fauna and socio-economic aspects in view of large number of transport vehicles, plants and machinery etc. that would be operating in the area. It would have been appropriate, if a cumulative impact study was undertaken to take care of all existing/proposed mines within 10 km of the present project site apart from Redi mine, if any. Therefore, we are of the opinion that these aspects were not properly assessed and examined scientifically and, therefor, the EIA report requires to be re-examined afresh".

That this Hon'ble Tribunal in this Judgment further directed on the issue of Cumulative Impact Assessment as under:-

"The project proponent shall be directed to conduct cumulative impact assessment of ambient air quality modelling for a radius of 15 km from the project area by collecting primary data regarding air quality for another season other than the winter season during the relevant period and also taking more number of locations within 15 kms radius selecting the probable polluting industries situated and the impact of the present as proposed projects in those areas as such directed by the National Green Tribunal in T. Muruganandam & Ors. Vs. Union of India & Ors Appeal No. 50 of 2012."

f. That ***National Thermal Power Corporation Limited*** *challenged the above Judgment dated 27.05.2021 in* ***Civil Appeal No. 1846 of 2021 titled National Thermal Power Corporation Limited (NTPC) vs. Uma Maheshwar Dahagama*** *and the Hon'ble Supreme Court vide its order dated 20 July,*

2021 was pleased to dispose of the Civil Appeal and affirmed the Directions/Judgment passed by the NGT in this case.

g. This being the situation, any industrial activity which is proposed in the area shall have to first consider the Combined Cumulative Impact of already existing industries and Carrying Capacity of the region. For this purpose, it is necessary to conduct Cumulative Impact Assessment study and Carrying Capacity Study as part of the EIA study of the project which has not been done in this case.

h. That it is stated that this Hon'ble Tribunal in Original Application No. 1038/2018 titled " News item published in "The Asian Age" authored by Sanjay Kaw Titled "CPCB to rank industrial units on pollution levels" wherein in its Order dated 10.07.2019 it has observed by this Hon'ble Tribunal that:-

"28.... No further industrial activities or expansion be allowed with regard to „red and „orange category units till the said areas are brought within the prescribed parameters or till carrying capacity of area is assessed and new units or expansion is found viable having regard to the carrying capacity of the area and environmental norms..."

8. The respondent, Project Proponent has raised the issue that the answering respondent cannot be questioned by the Appellant as he has no local standi to file this appeal since Appellant is not a resident of the area in which the environment clearance has been granted. He is a resident of district Anupur which is approximately 300 km from the area which is in question and hence no harm can be expected to be caused to the Appellant by issuance of environmental clearance for expansion of the production capacity.

J. LOCUS STANDI

9. In response to the contention raised by the respondent, Project Proponent that the appellant has no locus standi, the Appellant had submitted that:

"4. The legislative intent of the legislature in keeping the issue of locus standi before this Hon'ble Tribunal can also be seen from the ***186th Law Commission Report -on 'proposal to constitute Environmental Courts'*** *whereby it was proposed to constitute Green Tribunals. On the issue of locus standi the report advocates for a wide locus standi and clearly says that:-*

" . Locus Standi: So far as locus standi before the proposed Court in original petitions is concerned, it must be wide as it ls today before the High Court/Supreme Court in writ jurisdiction in environment matters. This is the position in Austrlia and New Zealand also, any person or organization who or which is interested in the subject public matter or in interest must be able to approach the Court."

5. That in ***Vimal Bhai u Ministry of Environment and Forests (2lll) SCC Online NGT 16****, giving a wide interpretation it was held by this Hon'ble Tribunal that "Once the mandate is of every citizen, any person can approach this Tribunal complaining environmental threat in the activities of the State or any organization or individual." The complete paragraph of the Judgment is reproduced as follows:-*

"A reading of Section z(j)(i) to (viii) would reveal that any individual, Hindu undivided family, Company, Firm, an association of persons or a body of individuals whether incorporated or not, trustees ofa trusl a local authority and every artificial juridical person not falling within any of the preceding sub-clauses, would indicate "person" who can maintain an application/appeal under the NGT Act. But, it is the argument of the learned counsel of the Respondent that even the above defined person shall be a person either aggrieved or injured directly or indirectly and not otherwise. Then the question arises whether in the environmental matters, a person who is really aggrieved/ injured shall alone be permitted to approach this Tribunal. A combined reading of the above sections, would indicate that any person whether he is a resident of that particular area or not whether he is aggrieved and/or injured or not, can approach this Tribunal, In such situations, it is of course necessary to scan and find out the credentials of the applicant/appellant as to their true intentions and motives. No doubt that in the present case though the appellants have participated in the EC proceedings and they have not challenged the same. However, that does not mean

that they cannot challenge the FC proceedings on any available legal grounds (However, it is to be noted that in the guise of challenging the FC, the appellants cannot be permitted to raise the grounds which might be raised, had the EC was challenged). Appellants apprehend a great danger and disaster to the environment and ecology, if the project is not properly envisaged and does not satisfy the principles of sustainable development and precautionary principles as is mandated under Section 20 of the NGT Act. In the matters of environmental cases, any individual or persons and body of individuals can agitate as to the correctness of the study of environment and ecology made by the granting authority. Further, nothing substantial has been demonstrated to doubt the credential of the appellant except saying that they (appellants) are not aggrieved and/or injured person (s) under the Ad and they are a busy body and their motives are ulterior. The person injured per-se as occurred in Section 18 (2) of the NGT Act is only for the purpose of claiming relief, compensation or settlement of disputes, is altogether different from the person aggrieved as available in Section 16. Person aggrieved and person injured are two different words which connote different meaning. Under Section 16 any person aggrieved can approach this Tribunal by way of filing an appeal. Whereas, under Section 18 (2) the person injured per-se, whether it is an individual or a body of individual or a social organization or a Hindu joint family etc. Further under Section 14 and 16 any person can approach this Tribunal for appropriate relief including the relief under Section 18"

From the above it is clear that the State shall endeavour and safeguard the environment and wild life and it is the fundamental duty of the citizen to improve the natural environment including forests, lakes, rivers, and wildlife and also to have compassion for living creatures. Once, the protection and improving the natural environment is the fundamental duty of a citizen, any person can approach this Tribunal and agitate his grievance as to protection and improvement of the natural environment. The statutory provisions are subservient to the constitutional mandates. ***The person as defined or person aggrieved as occurs in Section 2(j) 16 and 18 (2) of the NGT Act cannot be placed above "every citizen" as appears in Article 51(A) of the***

Constitution of India, Once the mandate is of every citizen, any person can approach this Tribunal complaining environmental threat in the activities of the State or any organization or individual.

Therefore, we are of the view that the appellants are interested persons in the environment and ecology of the area, though they are not directly affected,/ injured at this point of time, But, they can be definitely called aggrieved persons since they apprehend some danger, if the project is launched without taking proper precautions. The person aggrieved in environmental matters must be given a liberal construction and needs to be flexible. Therefore, we are of the considered opinion that persons like the appellants are also entitled to approach this Tribunal and the appeal is maintainable,"

6. That in Save Mon Region Federation us. Union of India and OE, (M,A. NO. 704 OF 2O72 in Appeal No. 39 OF 2012) it has been held that:- "18. Law gives a right to 'any person' who is aggrieved by an order to prefer an appeal. The term 'any person' has to be widely construed. It is to include all legal entities so as to enable them to prefer an appeal, even if such an entity does not have any direct or indirect interest in a given project. The expression 'aggrieved again, has to be construed liberally, The framers of law intended to give the right to any person aggrieved, to prefer an appeal without any limitation as regards his locus or interest,"

(Emphasised supplied)

7. The National Green Tribunal in ***Krishan Kant Singh vs. M/s Triveni Engg. Industries Ltd, [O.A NO.31 7/2014]*** *held that: "Under the provisions of the NGT Act any aggrieved person can approach the Tribunal for redressal of his grievances in relation to environment within the ambit and scope of Sections 14, 16 and 18 of the NGT Ad. The legislative object appears to be to catalyse the access to environmental justice, which need not be circumscribed by strict rule of locus standi in legal prescriptions."*

8. Therefore, while consideration of the above-stated judgments, it is very clear that in order to maintain the Appeal direct legal injury is not required and therefore, the Appellant has the requisite locus standi in this case.

9. Further, in the case of Samata & Ann v. MoeF & Ors., 2076 SCC Online NGT 479 this Tribunal had held that:

> *"Both under Section 11 of the NEAA Ad, 1997 and Section 18 of the NGT Act, 2010 any person aggrieved by the grant of EC as shown above can maintain an appeal. The 'aggrieved person' as contemplated in the Ad came up for interpretation before the Tribunal in a number of cases. An aggrieved person contemplated in the above provisions would refer to the substantial grievance as to denial of some personal, pecuniary or property right or imposing an obligation on a person. The grievance so ventilated should not be either fanciful or sentimental, but must be substantial. A person calling himself as an 'aggrieved' must have suffered a legal grievance that he has been wrongfully deprived of something or refused wrongfully. The aggrieved person can either be aggrieved either directly or indirectly. In so far as the environmental matters are concerned it cannot be stated that the person really aggrieved should alone be permitted to initiate an action. It is not necessary that the person, who initiates action, is a resident of that particular area wherein the proposed industrial site is located. It is true that the appellants have not participated in the proceedings of the public hearing. It is true that it is necessary to scan the credentials of the appellants as to their intention and motive. Even assuming that the appellants have not participated in the proceedings of the public hearing, to they would not lose their right challenge the approval or the EC. If the appellants come forward with a case apprehending damage and danger to environment and ecology if the project in question was not properly not satisfy the Principles of Sustainable Development and Precautionary Principles, they can maintain the appeal and be allowed to agitate as to the correctness of the study made in respect of ecology and environment."*

10. The issue of locus standi was also raised before this Tribunal in the case of ***Samir Mehta n Union of India & Ors. , 2016 SCC online NGT 479*** *before the PRINCIPAL BENCH of this Tribunal wherein after going through a plethora of cases discussing the issue this Hon'ble Tribunal held that:-*

" From the above judgment it is clear that locus standi of an Applicant cannot be given a strict connotation under the environmental laws of our country. 'Environment, is not a subject which is person oriented but is society centric. The impact of environment is normally felt by a larger section of society. Whenever environment is diluted or eroded the results are not person specific. If we were to adopt the reasoning given by the Respondents then it would lead to undesirable results. The provisions of a statute must be examined in light of the scheme of the Act and the scheme of both enactments afore referred do not permit recourse to such narrower interpretation."

11. That in ***Hanuman Laxman Aroskar vs, Union of India, (2019) 15 SCC 401***, it has been held that:

"164. Before we part with the present case, we consider it appropriate to record a finding on the bona fides of the appellants before this court. It was briefly urged by the respondents that the appellants have invoked the jurisdiction of this Court based on a personal agenda and consequently, the present appeal is liable to be dismissed. This argument cannot be accepted. We accept the submission of Ms Shenoy, Learned counsel appearing on behalf of the appellants, that the non-consideration of vital issues by EAC has led to the invocation of the statutory remedy available to them under Section 22 of the NGT Act, 2010. Vague aspersions on the intention of public-spirited individuals does not constitute an adequate response to those interested in the protection of the environment. If a court comes to the finding that the appeal before it was lacking bona fides, it may issue directions which it thinks appropriate in that case. In cases concerning environmental governance, it is a duty of courts to assess the case on its merits based on the materials present before it. Matters concerning environmental governance concern not just the living, but generations to come. The protection of the environment, as an essential facet of human development, ensures sustainable development for today and tomorrow."

10. The respondent has argued that the applicant is not person aggrieved and in reply thereof the applicant relied on *Vimal Bhai Vs MoEF and Ors, [Appeal No. 5 of 2011]* on 14th December, 2011, dealt with the interpretation of section 16 and section 18 to explain the meaning of 'person aggrieved' under the NGT Act and observed:

> *"The person injured per-se as occurred in Section 18 (2) of the NGT Act is only for the purpose of claiming relief, compensation or settlement of disputes, is altogether different from the person aggrieved as available in Section 16. Person aggrieved and person injured are two different words which connote different meaning. Under Section 16, any person aggrieved can approach this Tribunal by way of filing an appeal, whereas, under Section 18 (2), the person injured per-se, whether it is an individual or a body of individual or a social organization or a Hindu joint family, etc.*
>
> *Further, under Section 14 and 16 any person can approach this Tribunal for appropriate relief including the relief under Section 18.*
>
> *The only exception to be made for treating an appeal/application as not maintainable could be a matter which falls beyond the seven (7) Acts as notified in Schedule I of the NGT Act 2010 and in a case of mala-fide and vexatious litigation brought before this Tribunal and not otherwise."*

11. In M.C. Mehta Vs University Grants Commission & Ors on 17 July, 2014 (Original Application No.12 of 2014), this Tribunal has examined and explained intent of legislature and scope of Section 14,15 and 16 of the NGT Act, 2010. In the said decision, the Principal Bench spelt out that "jurisdiction under Section 16 of the Act is distinct from that of Ss.14 and 15" and held:

> *"12. This Tribunal is vested with three different jurisdictions. Firstly, it has the original jurisdiction in*

terms of Section 14 ofthe 10 NGT Act to deal with all civil cases raising a substantial question relating to environment and where such questions arise out of the implementation of the enactments specified in Schedule I of the NGT Act. Secondly, it is vested with appellate jurisdiction against the various orders / directions / decisions as stated in Section 16 (a) to (j) of the NGT Act. Thirdly it has a special jurisdiction in terms of Section 15 to grant relief of compensation and restitution as per the scheme contemplated under that provision. Admittedly, the present application has been filed under Section 14 of the NGT Act. Thus, it must plead and raise the following:

It should be a civil case.

Where a substantial question relating to environment or enforcement of any legal right relating to environment is involved.

Such question arises out of implementation of enactment specified in Schedule I of the NGT Act.

13. Once these three ingredients are satisfied, then Section 14 does not appear to place any restriction on the locus or character of the Applicant who wishes to move an application under Section 14 of the Act. Similarly, Section 15 also does not describe the description of an Applicant who can move the Tribunal for seeking reliefs like compensation, restitution of the property and the environment. In contradistinction thereto, Section 16 restricts the Applicant entitled to file an Appeal to be 'any person aggrieved'. In other words, it is only a person aggrieved who can invoke the jurisdiction of the Tribunal under Section 16 and not any Applicant. Section 18 deals with the procedure which has to be followed by an applicant or appellant, who prefers to file an application or appeal before the Tribunal. It deals with all the three jurisdictions specified under Section 14, 15 and 16 of the NGT Act. However, Section 18 (2) of the NGT Act provides the details in regard to locus and character of an Applicant who is entitled to move the Tribunal by filing an Application for grant of relief or compensation or settlement of dispute. Section 18(2) has been worded by the legislature with wide amplitude besides covering any

person aggrieved and the legal representatives of the various categories. In terms of Section 16, it includes various other persons as described under clauses (a) to (d) and

(f) of sub-Section 2 of Section 18. The locus and character of an applicant specified under these provisions has to receive liberal construction and would cover variety of applicants. As far as Section 14 (1) of the NGT Act is concerned, the only restriction that appears to be imposed is that it must satisfy the prerequisites stated in that Section."

12. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A petition is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the Appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. In-fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the Appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. ***(Vide: State of Orissa v. Madan Gopal Rungta MANU / SC / 0012 /1951MANU/SC /0012/1951: AIR 1952 SC 12; Saghir Ahmad and Anr. v. State of U.P. MANU/SC/0110/1954 MANU/SC/0110/1954:AIR 1954 SC 728; Calcutta Gas Co. (Proprietary) Ltd. v. State of West Bengal and***

Ors. MANU/ SC / 0063 /1962 MANU/SC/0063/1962: AIR 1962 SC 1044; Rajendra Singh v. State of Madhya Pradesh MANU/SC/0690/1996 MANU /SC/0690/1996: AIR 1996 SC 736; and Tamilnadu Mercantile Bank Shareholders Welfare Association (2) v. S.C. Sekar and Ors. MANU/SC/8375/ 2008 MANU/SC /8375/2008 : (2009) 2 SCC 784).

13. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. ***(Vide: Shanti Kumar R. Chanji v. Home Insurance Co. of New York MANU / SC / 0017 / 1974 MANU / SC / 0017 / 1974 : AIR 1974 SC 1719; and State of Rajasthan and Ors. v. Union of India and Ors. MANU/SC/0370/1977MANU/SC/0370/1977: AIR 1977 SC 1361).***

14. In **Anand Sharadchandra Oka v. University of Mumbai MANU/SC/7106/2008MANU/SC/7106/2008 : AIR 2008 SC 1289,** a similar view was taken by Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons.

15. In **A. Subhash Babu v. State of A.P. MANU/S C /0845/2011 MANU/SC/0845/2011 : AIR 2011 SC 3031,** Court held:

> *"The expression 'aggrieved person' denotes an elastic and an elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive definition. Its scope and*

meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of complainant's interest and the nature and the extent of the prejudice or injury suffered by the complainant."

16. Hon'ble Court, even as regards the filing of a habeas corpus petition, has explained that the expression, 'next friend' means a person who is not a total stranger. Such a petition cannot be filed by one who is a complete stranger to the person who is in alleged illegal custody. ***(Vide: Charanjit Lal Chowdhury v. The Union of India and Ors. MANU/SC/0009/1950MANU/SC/0009/1950 : AIR 1951 SC 41; Sunil Batra (II) v. Delhi Administration MANU/SC/ 0184/1978MANU/SC/0184/1978 : AIR 1980 SC 1579; Mrs. Neelima Priyadarshini v. State of Bihar MANU/SC/0253/1987MANU/SC/0253/1987 : AIR 1987 SC 2021; Simranjit Singh Mann v. Union of India MANU/SC/ 0058/1993MANU /SC/ 0058/1993 : AIR 1993 SC 280; Karamjeet Singh v. Union of India MANU/SC/0059/1993MANU/SC/0059/1993 : AIR 1993 SC 284; and Kishore Samrite v. State of U.P. and Ors. MANU/SC/0892/ 2012MANU/SC/0892/2012 : JT (2012) 10 SC 393).***

17. Hon'ble Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of the court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact,

genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, "ordinarily meddlesome bystanders are not granted a Visa". Many societal pollutants create new problems of non-redressed grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. ***(Vide: P. S. R. Sadhanantham versus Arunachalam and another MANU/ SC /0083 /1980 MANU/SC/0083/1980 : AIR 1980 SC 856; Dalip Singh versus State of U.P. and others. MANU/SC/1886/2009MANU/SC/1886/2009 : (2010) 2 SCC 114; State of Uttaranchal versus Balwant Singh Chaufal and others MANU/SC/0050/2010MANU/SC/0050/2010 : (2010) 3 SCC 402; and Amar Singh versus Union of India anothers MANU/SC/0596/2011MANU /SC /0596 /2011 : (2011) 7 SCC 69).***

18. Even as regards the filing of a Public Interest Litigation, Court has consistently held that such a course of action is not permissible so far as service matters are concerned. ***(Vide: Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors. MANU/SC/0541/1998MANU/SC/0541/1998 : AIR 1999 SC 114; Dattaraj Natthuji Thaware v. State of Maharashtra MANU/SC/1 060/ 2004 MANU/SC/1060/2004 : AIR 2005 SC 540; and Neetu v. State of Punjab and Ors. MANU/SC/7008 /2007MANU/SC/ 7008/2007 : AIR 2007 SC 758).***

19. In ***Ghulam Qadir v. Special Tribunal and Ors.MANU/SC/0608/2001MANU/SC/0608/2001 : (2002) 1 SCC 33,*** Court considered a similar issue and observed as under:-

> *"There is no dispute regarding the legal proposition that the rights under Article 226 of the Constitution of*

India can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus or quo warranto. Another exception in the general rule is the filing of a writ petition in public interest. The existence of the legal right of the Petitioner which is alleged to have been violated is the foundation for invoking the jurisdiction of the High Court under the aforesaid article. The orthodox rule of interpretation regarding the locus standi of a person to reach the Court has undergone a sea change with the development of constitutional law in our country and the constitutional Courts have been adopting a liberal approach in dealing with the cases or dislodging the claim of a litigant merely on hyper- technical grounds. ----In other words, if the person is found to be not merely a stranger having no right whatsoever to any post or property, he cannot be non-suited on the ground of his not having the locus standi."

20. Hon'ble Supreme Court in ***Ravi Yashwant Bhoir v. District Collector, Raigad and Ors. MANU/SC/0186/2012MANU /SC /0186/2012 : (2012) 4 SCC 407***, held as under:

"Shri Chintaman Raghunath Gharat, ex-President was the complainant, thus, at the most, he could lead evidence as a witness. He could not claim the status of an adversarial litigant. The complainant cannot be the party to the lis. A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eye of the law because it may not result in injury to a legal right or legally protected interest of the complainant but juridically harm of this description is called damnum sine injuria.

The complainant has to establish that he has been deprived of or denied of a legal right and he has sustained injury to any legally protected interest.

In case he has no legal peg for a justiciable claim to hang on, he cannot be heard as a party in a lis. A fanciful or sentimental grievance may not be sufficient to confer a locus standi to sue upon the individual. There must be injuria or a legal grievance which can be appreciated and not a stat pro ratione voluntas reasons i.e. a claim devoid of reasons.

Under the garb of being a necessary party, a person cannot be permitted to make a case as that of general public interest. A person having a remote interest cannot be permitted to become a party in the lis, as the person who wants to become a party in a case, has to establish that he has a proprietary right which has been or is threatened to be violated, for the reason that a legal injury creates a remedial right in the injured person. A person cannot be heard as a party unless he answers the description of aggrieved party."

21. A similar view has been re-iterated by Court in ***K. Manjusree v. State of Andhra Pradesh and Anr. MANU/SC/ 0925 /2008MANU/SC/0925/2008 : (2008) 3 SCC 512,*** wherein it was held that, the applicant before the High Court could not challenge the appointment of a person as she was in no way aggrieved, for she herself could not have been selected by adopting either method. Moreover, the appointment cannot be challenged at a belated stage and, hence, the petition should have been rejected by the High Court, on the grounds of delay and non-maintainability, alone.

22. In ***Balbir Kaur and Anr. v. Uttar Pradesh Secondary Education Services Selection Board, Allahabad and Ors. MANU/SC/7743/2008 MANU/SC/7743/2008 : (2008) 12 SCC 1***, it has been held that a violation of the equality clauses, enshrined in Articles 14 and 16 of the Constitution, or discrimination in any form, can be alleged, provided that, the writ Petitioner

demonstrates a certain appreciable disadvantage qua other similarly situated persons.

23. While dealing with the similar issue, The Court in ***Raju Ramsingh Vasave v. Mahesh Deorao Bhiavapurkar and Ors. MANU/SC/3754/2008MANU /SC / 3754/2008 : (2008) 9 SCC 54*** held:

> *"We must now deal with the question of locus standi. A special leave petition ordinarily would not have been entertained at the instance of the Appellant. Validity of appointment or otherwise on the basis of a caste certificate granted by a committee is ordinarily a matter between the employer and the employee. This Court, however, when a question is raised, can take cognizance of a matter of such grave importance suo motu. It may not treat the special leave petition as a public interest litigation, but, as a public law litigation. It is, in a proceeding of that nature, permissible for the court to make a detailed enquiry with regard to the broader aspects of the matter although it was initiated at the instance of a person having a private interest. A deeper scrutiny can be made so as to enable the court to find out as to whether a party to a lis is guilty of commission of fraud on the Constitution. If such an enquiry subserves the greater public interest and has a far-reaching effect on the society, in our opinion, this Court will not shirk its responsibilities from doing so." (also: Manohar Joshi v. State of Maharashtra and Ors. (2012)3 SCC 619)*

24. In ***Vinoy Kumar v. State of U.P. MANU/SC/ 0252 / 2001 MANU/SC/0252/2001 : AIR 2001 SC 1739***, Court held:

> *"Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is*

threatened and such person or determined class of person is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief."

25. Since a serious question of application of environmental rule has been raised in this matter and reply has been filed by the parties thus, it is desirable that the application should be heard and decided on merit. Thus we proceed on merit.

K. EAC AND CONSIDERATION OF OBJECTIONS:

Inadequate deficient and incomplete EIA and the issue of base line data used in ambient air quality data

26. The appellant has raised the issue of EIA report and the base line data which was collected during March-June, 2016 which is set to be two years prior to the grant of ToR, and further that the base line data used for the preparation of EIA/EMP Report should not be older than three years at the time of submission of the proposal. Para 7 of the OM dated 29.08.2017 provides that the data should not be older than the three years and in view of the report submitted by the EIA the same was used. It is further submitted that the base line AAQ data was collected during June, 2016 on the total sanctioned coal production capacity for all the mines of Northern coal field was 71 MTPA which was increased to 90.75 MTPA during and at the time of the appraisal of the current proposal. It is further argued that the data collected by the Madhya Pradesh Pollution Control Board on Ambient Air Quality was not duly considered by the EIA and the project proponent has used out dated air model for air modelling.

27. In response to the above contention, MoEF&CC, Respondent No. 1 has submitted that :-

i. The base line ambient air quality data were recorded for three months' period (From March to June, 2016) by selecting four core zone & four Buffer zone stations. The parameter chosen for

assessment of ambient air quality was SPM, PMl0, PM2.5, SO2, NOx and heavy metals such as Pb, As, Ni, Cr, Cd, Hg and Free silica in PM10. The frequency of sampling is twice a week for 24-hour duration on consecutive days for 12 weeks.

ii. The proposal was first submitted on Ministry's PARIVESH Porlal and essential details (EDS) were sought on2210412019 and a reply in that context was sent on 05/01/2020. It is further submitted that EDS was sought once again on 09/01/2020 and in that context reply was sent on 2210112020. Therefore, the baseline data considered in EIA/EMP by the Project Proponent for preparation of EIA/EMP report for the proposed expansion project was within three years. The same is in conformity with the provisions contained in the Ministry's OM dated 29th August,2017, which inter-alia provides as under :-

> ***"The baseline data used for preparation of EIA/EMP reports may be collected at any stage, irrespective of the request for ToR or the issue thereof,, However, such u baseline data and the public consultation should not be older than 3 years, at the time of submission of the proposal, for grant of Environmental Clearance, as per ToRs prescribed."***

28. The total Forest land involved in the project comprises of 555.000 ha. (U.P.), 194.780 ha (M.P.) and 467.809 ha (M.P.) which makes a total of 1217.589 ha forest land. It is further submitted that the Ministry, vide letter dated 19th April, 2018, has accorded Stage-II In-principle approval under the Forest Conservation Act, 1980 for the diversion of 467.809 hectares of forest land required during expansion proposal for Opencast Coal Mining in favour of M/s Northern Coalfields Limited, Rewa in Singrauli District, State of Madhya Pradesh.

29. EAC in its 53rd meeting held on 20th February, 2020 has taken into consideration the response regarding Air quality Impact Prediction (AQIP) for incremental coal production from opencast mines of M/s Northern Coalfields

Limited. AQIP was carried out by using Fugitive Dust Model (FDM-90121, 1990) considering current and peak production of mines.

30. As per EIA/EMP, in Dudhichua Open cast mine the sources of noise are drilling & blasting operation in coal and OB, operation of HEMMs, operation of equipment in CHP, workshop, etc, presently at existing production level Noisc lcvcls arc within the limits of the prescribed standard. The noise level in and around the project is not likely to increase in future due to expansion of Dudhichua Mine, as there is no increase in equipment population.

31. Central Mine planning and Design Institute (CMPDI) was entrusted the Flora & Fauna study for Dudhichua Expansion Project. The expert team had visited and observed l0 km around Dudhichua Expansion project for study. In the study all type of flora from natural as well as artificial plantation and fauna have been surveyed. As per the above study, there is no endangered or endemic floral species in the core & buffer zone of study area. Also, there is no endangered faunal species or migratory birds in the core as well as in buffer zone of study area, so separate conservation plan is not required.

32. Central Mine planning & Design Institute Limited (CMPDIL) is NABET/QCI accredited Consultant for preparation of EIA/EMP reports relating to mining of minerals, including Open cast/Underground mining and Coal Washeries.

33. The impact of mining on Hydrology and ground water were analysed and assessed and Mitigative measures were suggested. The Industrial and domestic waste water was being treated in-existing ETP and STP and re-use.

34. The matter was taken up in 52nd meeting of EAC as agenda no. 53.1 and the points as raised by the Appellant was duly considered as follows :-

Agenda No. 53.1

Expansion of Dudhichua Opencast Coal mining Project {expansion in production from 15.50 MTPA to 25 MTPA in an ML area 2390.722 ha of M/s Northern Coalfields Ltd. located in village Chilkatand District Sonebhadra (Madhya Pradesh} - For Environmental Clearance - reg

[Proposal No. IA/MP/CMIN/8814/2008; F. No. IA-J-11015/381/2008-IA.II(M)]

53.1.1 *The proposal is for environmental clearance for Expansion of Dudhichua Opencast Coal Mining Project (expansion in production from 15.50 MTPA to 25 MTPA in an ML area 2390.722 ha of M/S Northern Coalfields Ltd located in village Chilkatand District Sonebhadra (Madhya Pradesh)*

53.1.2 *Details of the proposal, as ascertained from the proposal documents and as revealed from the discussions held during the meeting, are given as under:*

i. *The project area is covered under Survey of India Topo Sheet No G44W12 and is bounded by the geographical coordinates ranging from 24°9'12.23"N to 24°9'20.28"N and Longitude: 82^{0}41'3.27"E to 82°40'2.3"E.*

ii. *Coal linkage of the project is proposed for Basket linkage mine for pit head power station of NTPC, UPRVUNL in Singrauli Coalfields and Power station in Western/ Northern India through their own MGR system and other consumers by Public Railway.*

iii. *Joint venture cartel has been formed- NIL.*

iv. *Project does not fall in the Critically Polluted Area (CPA),*

v. *Employment generation 3350 nos (as per EPR)*

vi. *The project is reported to be beneficial in terms of: The project will be able to supply planned quantity of coal to pit head power stations of NTPC, UPRVUNL in Singrauli Coalfields and power stations in western/ Northern India through their own MGR system and other consumers by public railway system thus meeting the energy needs of the Country.*

vii. *Earlier, the environment clearance to the project was obtained under EIA Notification,*

vide Ministry's letter No J-11015/381/2008-IA.II(M) dated:2612/2019 for 17.5 MTPA in mine lease area of 1752 Ha.

viii. *Total mining lease area as per block allotment is 2390.722 Ha. Mining Plan (Including Progressive Mine Closure Plan) has been approved by the NCL board on 25.11.2017.*

ix. *The land usage pattern of the project is as follows:*

Pre- mining land use details ***(Area in Ha.)***

Sr. No.	Land Use	Within ML Area	Outside ML Area	Total
1	Agricultural Land	806.913	-	806.913
2	Forest Land	1217.589	-	1217.589
3	Wasteland	-	-	-
4	Grazing Land	-	-	-
5	Surface Water Bodies	-	-	-
6	Settlements	-	-	-
7	Others (Government Land)	366.22	-	366.22
	Total Project Area	2390.722	-	2390.722

Post Mining:

S. No.	Land use	Land use (ha)				
		Plantation	Water Body	Public Use	Undisturbed	Total
1	External OB Dump	152	-	-	-	152
2	Top Soil Dump	Top Soil has been used immediately in reclamation of dumps.				
3	Excavation	1316	324	-	-	1640
4	Roads	-	-	174	-	174
5	Built-up Area	-	-		-	
6	Green Belt	62.722	-	-	-	62.722
7	Undisturbed Area	164	-	-	-	164
8	Safety Zone Rationalization Area					
9	Diversion Nala / Canal	-	-	-	-	-
10	Water Body	-	-	-	-	-
11	Staff Colony	-	-	198	-	198
	Total Area	1694.722	324.00	372.00	-	2390722

x. *Total geological reserve reported in the mine lease area is 361.34 MT with 320.01 MT mineable reserves. Out of*

total mineable reserve of 320.01 MT, 288.009 MT are available for extraction. Percent of extraction is 90%.

xi. 03 seams with thickness ranging from 1.95m — 25.75m are workable. Grade of coal is G-8 to G-12, stripping ratio 4.61 m^3/t, while gradient is 2^0 to 3^0.

xii. Method of mining operations envisages by Combination of Dragline and Shovel- Dumper method.

xiii. Life of mine is 17 years.

xiv. The project has two external OB dumps in an area of 152 Ha with 90m height and 134 Mm^3 of OB. Two Internal OB dumps in an area of 1316 Ha with 1483.33 Mm^3 of OB are envisaged in the project.

xv. Total quarry area is 1640 Ha out of which backfilling done in 1316 Ha while final mine void will be created in an area of 324 Ha with a depth of 30m to 40m. BacKfilled quarry area of 1316 Ha shall be reclaimed with plantation, Final mine void will be converted into water body.

xvi. Transportation of coal has been proposed by Rear bumpers in mine pit head, from surface to siding by Coal Handling Plant (CHP) and at sidings to loading by Silo.

xvii. Reclamation Plan in an area of 1694.722 Ha, comprising of 152 Ha of external dump, 1316 Ha of internal dump and 62.722 Ha of green belt. In addition to this, an area of 164 Ha, included in the safety zone/rationalization area, has also been proposed for green belt development.

xviii. 1217.589 Ha of forest land has been reported to be involved in the project. Approval under the Forest (Conservation) Act, 1980 for diversion of forest land for non-forestry purposes has been obtained as follows:-

Area (Ha)	**Stage-1 FC issued vide letter no & date**	**Validity Period of FC**
555.00 (UP State)	8-298/87-FC dated 30.07.1990	Valid Upto 30.07.2020
194.78 (MP State)	Letter No.8-13/93-FC (Vol-III) dated 17.11.2015	Valid Upto 17.11.2035
The remaining forestland of 467.809Ha has Stage I clearance and Stage-II clearance of forest land is under process.		

xix. *No National Parks, Wildlife Sanctuaries and Eco-Sensitive Zones have been reported with 10 km boundary of the project.*

xx. *The ground water level has been reported to be varying between 1.18m (2017) to 21.50m (2019) during pre-monsoon and between 0.55m (2019) to 18.70m (2018) during post-monsoon. Total water requirement for the project is 8183m3/d.*

xxi. *Application for obtaining the approval of the Central Ground Water Authority:- NOC granted vide NOC No. CHWA/NOC/MIN/ORIG/2019/6993 by CGWA.*

xxii. *Public hearing for the project of 25 MTPA capacity in an area of 2390.722 Ha was conducted on 08.02.2019 at Virendra Community Hall, Dudhichua Sector-A Colony, Singrauli. Major issues raised in the public hearing and Appropriate action to address the issues raised in the Public Hearing have already been taken/proposed to be taken.*

xxiii. *Consent to operate for the existing capacity was obtained from the State PCB on 29.01.2020 and is valid till 31.12.2020.*

xxiv. *Regular monitoring of ambient air quality is being carried out on fortnightly basis. The documented report is submitted to SPCB and also to MoEF&CC along with half yearly EC compliance report. In general, the results of ambient air quality monitoring data were found within prescribed limits except few aberrations which can be attributed to the specific local conditions during the day of sampling.*

xxv. *No court cases, violation cases are pending against the project of the PP.*

xxvi. *The project does not involve violation of the EIA Notification, 2006 and amendment issued there under. The coal production from the mine was started from the year 1987 onwards. The coal production, realized from the project from, 1987-88 onwards and the production details of last ten financial years are as under:*

Year	EC sanctioned capacity (MTPA)	Actual production (MTPA)	Excess production beyond the EC sanctioned capacity
2008-09	15.50	13.27	NIL
2009-10	15.50	13.31	NIL
2010 11	15.50	10.50	NIL
2011-12	15.50	11.73	NIL
2012-13	15.50	12.23	NIL
2013-14	15.50	11.17	NIL
2014-15	15.50	10.82	NIL
2015-16	15.50	13.08	NIL
2016-17	15.50	14.01	NIL
2017-18	15.50	15.50	NIL
2018-19	15.50	15.50	NIL
2019-20 (upto Dec-19)	15.50	13.674	NIL

xxvii. **The project involves 580 nos.** project affected families. R&R of the PAPs will be done as per R&R policy of Coal India Ltd.

xxviii. Total cost of the project is Rs.271837 lakhs. Cost of production is Rs. 850.27/- per tonne (2018-19), CSR cost is 2% of the avg. net profit of the company for three Immediate proceeding financial year or Rs.2 per tonne whichever is higher, R&R cost is Rs.29.09 crores. **Environment** management Cost is Rs. 16152.78 Lakhs (As per EPR).

xxix. Consent to operate (CTO) was obtained from the State Pollution Control Board on 29.01.2020 and is valid till 31.12.2020.

53.1.3 During deliberations on the proposal, the Committee notcd thc following:

The proposal is for environmental clearance for Expansion of Dudhichua Opencast Coal Mining Project (expansion in production from15.50 MTPA to 25 MTPA in an ML area 2390.722 ha of M/s Northern Coalfields Ltd located In village Chilkatand District Sonebhadra (Madhya Pradesh).

Earlier environmental clearance for 12.5 MTPA in an area of 1752 ha was granted on 28 February, 2008 from 12.5 to 15.5 MTPA on 10th December, 2008. Further environmental clearance for 15.5 to 17.5 MTPA in an area of 1752 ha has been granted on 26" December, 2019.

ToR was granted by Ministry on 1st February, 2018. Public hearing for the project of 25 MTPA capacityty in an ML area of 2390.722 ha

was conducted on 8th February, 2019 at Virendra Community Hall, Dudhichua Sector A Colony, P.O. Jayant, Singrauli, Madhya Pradesh. Issues related to pollution due to stored mine water, higher fluoride concentration, R & R Compensation, water pollution, air pollution due to transportation of coal, desiliting of ballia nallah, blasting during mining etc were raised during Public Hearing.

A Study of IRR in Its ecological dimension to know the pollution load bearing capacity of the surrounding ecosystem has been carried out by Department of Environmental Science & Environment (ESE), IIT (ISM), Dhanbad, Jharkhand.

The most important stream in around is Ballia Nalla. The drainage of the area is controlled by seasonal streams which discharge into Ballia Nallah, which ultimately drains into Govind Ballabh Pant Sagar in the south. Similarly, towards north, the drainage is through seasonal streams which ultimately join Bijul Nalla.

In the Dudhichua Project area 4 villages are directly affected by mining operations namely Dudhichua, Chilkatand, Karwari and Madhauli, which constitute the core zone. Out of these villages Dudhichua & Karwari villages are fully affected & balance two villages are partially affected.

The base line ambient air quality data were recorded for three months period (From March to June 2016) by selecting core zone & Buffer zone stations.

2390.722 Ha of land already acquired including the forest land of 467.809 Ha. For 467.809 Ha Stage-II is under process and the same proposal has been linked to this EC application.

Mine plan (including Mine Closure Plan) has been approved for 20 MTPA (Normative) and 25 MTPA (Peak) approved by CIL on 25th November, 2017.

Compliance of EC conditions are certified by Regional Office, Bhopal vide its Letter dated 24th October, 2018. The Committee deliberated the compliance status.

The EAC, constituted under the provision of the EIA Notification, 2006 and comprising of Experts Members/domain experts in various fields, have examined the proposal submitted by the Project Proponent in desired form along with report prepared and submitted by the Consultant accredited by the QCI/ NABET on behalf of the Project Proponent.

The EAC noted that the Pproject Proponent has given undertaking that the data and information given in the application and enclosures are true to the best of his knowledge and belief and no information has been suppressed in the report. If any part of data/information submitted is found to be false/misleading at any stage, the project will be rejected and Environmental Clearance given, if any, will be revoked at the risk and cost of the project proponent. The EAC has deliberated the proposal and has made due diligence in the process as notified under the provisions of the EIA Notification, 2006, as amended from time to time and accordingly made the recommendations to the proposal. The Experts Members of the EAC have found the proposal in order and have recommended for grant of Environmental Clearance (EC).

L. RECOMMENDATIONS:

53. 1.4 *The EAC, after detailed deliberation, recommended the proposal for grant of environmental clearance to Expansion of Dudhichua Opencast Coal Mining Project (expansion in production from 15.50 MTPA to 25 MTPA in an ML area 2390.722 ha of M/s Northern Coal fields Ltd located in village Chilkatand District Sonebhadra (Madhya Pradesh), under the provisions of the Environment Impact Assessment Notification, 2006 and subsequent amendments/circulars thereto subject to the compliance of the following terms & conditions / specific conditions: -*

(i) Validity of EC is life of the mine or 30 years whichever is earlier as per EIA Notification, 2006.

(ii) The project proponent shall obtain Consent to establish from the State Pollution Control Boards for the proposed peak capacity of 20 MTPA (Normative)/ 25 MTPA(Peak) prior to commencement of the increased production.

(iii) Third party monitoring (by NEERI/CIMFR/IIT) for air quality shall be carried out at identified locations, both ambient and the process area, to arrive at impact of the proposed expansion. The results along with the recommendation shall be presented before the EAC

to assess the efficacy and adequacy of pollution control measures.

(iv) Transportation of coal from Coal Handling Plant shall be through covered trucks.

(v) To control the production of dust at source, the crusher and in-pit belt conveyors shall be provided with mist type sprinklers.

(vi) Mitigating measures shall be undertaken to control dust and other fugitive emissions all along the roads by providing sufficient water sprinklers. Adequate corrective measures shall be undertaken to control dust emissions, which would include mechanized sweeping, water sprinkling/mist spraying on haul roads and loading sites, long range misting/fogging arrangement, wind barrier wall and vertical greenery system, green belt, dust suppression arrangement at loading and unloading points, etc.

(vii) Continuous monitoring of occupational safety and other health hazards, and the corrective actions need to be ensured.

(viii) Persons of nearby villages shall be given training on livelihood and skill development to make them employable.

(ix) Thick green belt of adequate width at the final boundary in the down wind direction of the project site shall be developed to mitigate/check the dust pollution.

(x) Mechanism for treating stored mine water shall be developed to avoid any ground and surface water contamination

(xi) Mining shall be carried out only by surface miners for the expansion project and silo loading through in-pit conveyor should be installed to avoid road transportation in 2 years.

(xii) Ballia, Bijul and other Nallahs linked with this project shall be cleaned quarterly to avoid deposition of silts.

(xiii) Efforts shall be made for utilizing alternate sources of surface water, abandoned mines or else whatsoever and thus minimizing the dependability on a single source.

(xiv) The company shall obtain approval of CGWA for use of groundwater for mining operations at its enhanced capacity of 20 MTPA (Normative)/ 25 MTPA(Peak).

(xv) Continuous monitoring of occupational safety and other health hazards, and the corrective actions need to be ensured.

(xvi) A third party assessment of EC compliance shall be undertaken once in three years through agency like ICFRI / NEERI/ IIT or any other expert agency identified by the Ministry.

(xvii) Active OB dump should not be kept barren/open and should be covered by temporary grass to avoid air born of particles

(xviii) Permission of diversion of nallah from concerned statutory authority (if any)

(xix) Compliance of the non-compliance/partial compliance conditions certified by Regional Office, Bhopal vide its Letter No. 3-22/2009(ENV)/807 dated 24th October, 2018. The PP shall take all the mitigation measures and the Action taken report shall be submit the Regional office of the MoEFCC.

(xx) Project proponent to plant 150,000 nos. of native trees with broad leaves along the villages namely Dudhichua, Chilkatand, Karwari and Madhauli in three years and along transportation route to prevent the effect of air pollution. After completion of tree plantation, number of trees shall be duly endorsed from District Forest Officer.

(xxi) The activities and fund provisions for CER shall be made as per the guidelines issued by the ministry regarding CER on 1st May, 2018.

(xxii) Project Proponent shall obtain blasting permission from DGMS for conducting mining operation near villages and also explore deployment of rock breakers of suitable capacity in the project to avoid blasting very near to villages. There shall be no damages caused to habitation/structures due to blasting activity.

(xxiii) The Project Proponent shall complies with all the statutory requirements and judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors. State Government shall ensure that the entire compensation levied, if any, for illegal ilning paid by the Project Proponent through their respective Department in strict compliance of judgment of Hon'ble Supreme Court dated the 2nd August 2017 in Writ Petition (Civil) No. 114 of 2014 in the matter of Common Cause versus Union of India and Ors.

(xxiv) Project Proponent shall obtain the necessary prior permission from the Central Ground Water Authority (CGWA) in case of intersecting the Ground water table. The intersecting ground water table can only be commence after conducting detailed hydrogeological study and necessary permission from the CGWA, The Report on six monthly basis on changes in Ground water level and quality shall be submitted to the Regional Office of the Ministry, CGWA and State Pollution Control Board

(xxv) Proponent shall appoint an Occupational health Specialist for Regular and Periodical medical examination of the workers engaged in the Project and maintain records accordingly; also Occupational health check-ups for workers having some ailments like BP, diabetes, habitual smoking, etc. shall be undertaken once in six months and necessary remedial/preventive measures taken accordingly. The Recommendations of National Institute for ensuring good occupational environment for mine workers shall be implemented; the prevention measure for burns, malaria and provision of antisnake venom including all other paramedical safeguards may be ensured before initiating the mining activities.

(xxvi) Project Proponent shall follow the mitigation measures provided in Office Memorandum No. Z-11013/57/2014- IA.II (M), dated 29th October, 2014, titled "Impact of mining activities on Habitations-issues related to the mining Projects wherein Habitations and villages are the part of mine lease areas or Habitations and villages are surrounded by the mine lease area".

(xxvii) The illumination and sound at night at project sites disturb the villages in respect of both human and animal population. Consequent sleeping disorders and stress may affect the health in the villages located close to mining operations. Habitations have a right for darkness and minimal noise levels at night. PPs must ensure that the biological clock of the villages is not disturbed; by orienting the floodlights/ masks away from the villagers and keeping the noise levels well within the prescribed limits for day light/night hours.

(xxviii) The project proponent shall take all precautionary measures during mining operation for conservation and protection of endangered fauna, if any, spotted in the study area. Action plan for conservation of flora and fauna shall be prepared and implemented in consultation with the State Forest and Wildlife Department. A copy of action plan shall be submitted to the Ministry of Environment, Forest and Climate Change and its Regional Office.

(xxix) Hon'ble Supreme Court in an Writ Petition(s) Civil No. 114/2014, Common Cause vs Union of India & Ors vide its judgement dated 8th January, 2020 has directed the

Union of India to impose a condition in the mining lease and a similar condition in the environmental clearance and the mining plan to the effect that the mining lease folders shall, after Ceasing mining operations, undertake regrassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. Compliance of this condition after the mining g activity is over at the cost of the mining lease holders/Project Proponent". The implementation report of the above said condition shall be sent to the Regional Office of the MoEFCC.

Additional Specific as the area falls under Severely Polluted Area (SPAs)

(xxx) CTE/CTO for the project shall be obtained from the SPCB as required under the Air (Prevention and Control| of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) act, 1974 and the SPCB shall follow the mechanism/protocol issued by the Ministry vide letter no. Q-16017/38/20-18-CPA dated 24th December, 2019 while issuing the CTE/CTO for the project, for improvement of environmental quality in the area.

(xxxi) The green belt of at least 5-10 m width shall be developed in more than 40% (in place of EAC recommended 33%) of the total project area, mainly along the plant periphery, in downward wind direction, and along road sides etc. Selection of plant species shall be as per the CPCB guidelines in consultation with the State Forest Department.

(xxxii) In addition, the project proponent shall develop greenbelt outside the plant premises such as avenue plantation, plantation in vacant areas, social forestry etc.

(xxxiii) Monitoring of compliance of EC conditions may be submitted with third party audit every year.

(xxxiv) The percentage the CER may be atleast 1.5 times the amount given in the OM dated 01 May, 2018 recommended by the EAC and item-wise details along with time bound action plan shall be prepared and submitted to the Ministry's Regional Office.

35. Standard EC conditions for Coal Mining Project (Open Cost Mining) have been also given in appendix-1, which is as follows :-

M. STANDARD EC CONDITIONS FOR COAL MINING PROJECT (OPENCAST MINING) :

All the projects recommended for grant of environmental clearance by the EAC shall also comply with the following Standard EC conditions as per Ministry's Circular issued from time to time:

(a) Statutory Compliance

i. *The project proponent shall obtain forest clearance under the provisions of Forest (Conservation) Act, 1986, in Case of the diversion of forest land for non -forest purpose involved in the project.*

ii. *The project proponent shall obtain clearance from the National Board for Wildlife if applicable.*

iii. *The project proponent shall prepare a Site-Specific Conservation Plan/ Wildlife Management Plan and approved by the Chief Wildlife Warden. The recommendations of the approved Site-Specific Conservation Plan/ Wildlife Management Plan shall be implemented in consultation with the State Forest Department. The implementation report shall be furnished along with the Six-monthly compliance report (in case of the presence of schedule-I species in the study area).*

iv. *The project proponent shall obtain Consent to Establish/ Operate under the provisions of Air (Prevention & Control of Pollution) Act, 1981 and the Water (Prevention & Control of Pollution) Act, 1974 from the concerned State Pollution Control Board/ Committee.*

v. *The project proponent shall obtain the necessary permission from the Central Ground Water Authority.*

vi. *Solid/ hazardous waste generated in the mines needs to addressed in accordance to the Solid Waste Management Rules, 2016/ Hazardous & Other Waste Management Rules, 2016.*

B. Air quality monitoring and Preservation

(i) *Continuous ambient air quality monitoring stations as prescribed in the statue be established in the core zone as*

well as in the buffer zone for monitoring of pollutants, namely PM_{10}, $PM_{2.5}$, SO_2, NO_X. Location of the stations shall be decided based on the meteorological data, topographical features and environmentally and ecologically sensitive targets in consultation with the State Pollution Control Board. Online Ambient air quality monitoring stations may also be installed in addition to the regular monitoring stations as per the requirement and/or in consultation with the SPCB. Monitoring of heavy metals such as Hg, As, Ni, Cd, Cr, etc to be carried out at least once in six months.

(ii) The Ambient Air quality monitoring in the core zone shall be carried out to ensure the Coal Industry Standards notified vide GSR 742(E) dated 25th September, 2000 and as amended from time to time by the Central Pollution Control Board. Data on ambient air quality and heavy metals such as Hg, As, Ni, Cd, Cr and other monitoring data shall be regularly reported to the Ministry/Regional Office and to the CPCB/ SPCB.

(iii) Transportation of coal, to the extent permitted by road, shall be carried out by covered trucks/conveyors. Effective control measures such as regular water/mist sprinkling/ rain gun etc shall be carried out in critical areas prone to air pollution (with higher values of PM_{10} / $PM_{2.5}$) such as haul road, loading/unloading and transfer points, Fugitive dust emissions from all sources shall be controlled regularly. It shall be ensured that the Ambient Air Quality parameters conform to the norms prescribed by the Central/State Pollution Control Board.

(iv) The transportation of coal shall be carried out as per the provisions and route envisaged in the approved Mining Plan or environment monitoring plan. Transportation of the coal through the existing road passing through any village shall be avoided. In case, it is proposed to construct a 'bypass' road, it should be so constructed so that the impact of sound, dust and accidents could be appropriately mitigated.

(v) Vehicular emissions shall be kept under control and regularly monitored. All the vehicles engaged in mining and allied activities shall operate only after obtaining 'PUC' certificate from the authorized Pollution Testing Centers.

(vi) Coal stock pile/crusher/feeder and breaker material transfer points shall invariably be provided with dust suppression

system. Belt-conveyors shall be fully covered to avoid air borne dust. Side cladding all along the conveyor gantry should be made to avoid air borne dust. Drills shall be wet operated or fitted with dust extractors.

(vii) Coal handling plant shall be operated with effective control measures w.r.t. various environmental parameters, Environmental friendly sustainable technology should be implemented for mitigating such parameters.

C. Water quality Monitoring and Preservation

(i) The effluent discharge (mine waste water, workshop effluent) shall be monitored in terms of the parameters notified under the Water Act, 1974 Coal Industry Standards vide GSR 742 (E) dated 25 September, 2000 and as amended from time to time by the Central Pollution Control Board.

(ii) The monitoring data shall be uploaded on the company's website and displayed at the project site at a suitable location. The circular No.J-20012/ 1/2006-IA. 11 (M) dated 27 May, 2009 issued by Ministry of Environment, Forest and Climate Change shall also be referred in this regard for its compliance

(iii) Regular monitoring of ground water level and quality shalll be carried out in and around the mine lease area by establishing a network of existing wells and constructing new piezometers during the mining operations. The monitoring of ground water levels shall be carried out four times a year i.e. pre-monsoon, monsoon, post-monsoon and winter. The ground water quality shall be monitored once a year, and the data thus collected shall be sent regularly to MOEFCC/RO.

(iv) Monitoring of water quality upstream and downstream of water bodies shall be carried out once in six months and record of monitoring data shall be maintained and submitted to the Ministry of Environment, Forest and Climate Change /Regional Office.

(v) Ground water, excluding mine water, shall not be used for mining operations. Rainwater harvesting shall be implemented for conservation and augmentation of ground water resources.

(vi) Catch and/or garland drains and siltation ponds in adequate numbers and appropriate size shall be constructed around the mine working, coal heaps & OB dumps to prevent run off of water and flow of sediments directly into the river

and water bodies. Furher, dump material shall be properly consolidated/ compacted and accumulation of water over dumps shall be avoided by providing adequate channels for flow of silt into the drains. The drains/ ponds so constructed shall be regularly de-silted particularly before onset of monsoon and maintained properly. Sump capacity should provide adequate retention period to allow proper settling of silt material. The water so collected in the sump shall be utilized for dust suppression and green belt development and other industrial use. Dimension of the retaining wall constructed, If any, at the toe of the OB dumps within the mine to check run-off and siltation should be based on the rainfall data. The plantation of native species to be between toe of the dump and adjacent field/habitation/water bodies.

(vii) Adequate groundwater recharge measures shall be taken up for augmentation of ground water. The project authorities shall meet water requirement of nearby village(s) after due treatment conforming to the specific requirement (standards).

(viii) Industrial waste water generated from CHP, workshop and other waste water, shall be properly collected and treated so as to conform to the standards prescribed under the standards prescribed under Water Act, 1974 and Environment (Protection) Act, 1986 and the Rules made there under, and as amended from time to time. Adequate ETP / STP needs to be provided.

(ix) The water pumped out from the mine, after siltation, shall be utilized for industrial purpose viz. watering the mine area, roads, green belt development etc. The drains shall be regularly desilted particularly after monsoon and maintained properly.

(x) The surface drainage plan including surface water conservation plan for the area of influence affected by the said mining operations, considering the presence of river/rivulet/pond/lake etc, shall be prepared and implemented by the project proponent. The surface drainage plan and/or any diversion of natural water courses shall be as per the approved Mining Plan/EIA/EMP report and with due approval of the concerned State/GoI Authority. The construction of embankment to prevent any danger against inrush of surface water into the mine should be as per the approved mining Plan and as per the permission of DGMS or any other authority as prescribed by the law.

(xi) The project proponent shall take all precautionary measures to ensure riverine/riparian ecosystem in and around the

coal mine up to a distance of 5 km. A rivarine/riparian ecosystem conservation and management plan should be prepared and implemented in Consultation with the irrigation / water resource department in the state government.

D. Noise and Vibration monitoring and prevention

(i) Adequate measures shall be taken for control of noise levels as per Noise Pollution Rules, 2016 in the work environment, Workers engaged in blasting and drilling operations, operation of HEMM, etc shall be provided with personal protective equipments (PPE) like ear plugs/muffs in conformity with the prescribed norms and guidelines in this regard. Adequate awareness programme for users to be conducted. Progress in usage of such accessories to be monitored.

(ii) Controlled blasting techniques shall be practiced in order to mitigate ground vibrations, fly rocks, noise and air blast etc., as per the guidelines prescribed by the DGMS.

(iii) The noise level survey shall be carried out as per the prescribed guidelines to assess noise exposure of the workmen at vulnerable points in the mine premises, and report in this regard shall be submitted to the Ministry/RO on six-monthly basis.

E. Mining Plan

i. Mining shall be carried out underr strict adherence to provisions of the Mines Act 1952 and subordinate legislations made there-under as applicable.

ii. Mining shall be carried out as per the approved mining plan (including Mine Closure Plan) abiding by mining laws related to coal mining and the relevant circulars issued by Directorate General Mines Safety (DGMS).

iii. No mining shall be carried out in forest land without obtaining Forestry Clearance as per Forest (Conservation) Act, 1980.

iv. Efforts should be made to reduce energy and fuel consumption by conservation, efficiency improvements and use of renewable energy.

F. Land reclamation

(i) Digital Survey of entire lease hold area/core zone using Satellite Report Sensing survey shall be carried out at least

once in three years for monitoring land use pattern and report in 1: 50,000 scale or as notified by Ministry of Environment Forest and Climate Change(MOEFCC) from time to time shall be submitted to MOEFCC/ Regional Office (RO).

(ii) *The final mine void depth should preferably be as per the approved Mine Closure Plan, and in case it exceeds 40 m, adequate engineering interventions shall be provided for sustenance of aquatic life therein. The remaining area shall be backfilled and covered with thick and alive top soil. Post-mining land be rendered usable for agricultural/forestry purposes and shall be diverted. Further action will be treated as specified in the guidelines for Preparation of Mine Closure Plan Issued by the Ministry of Coal dated 27 August, 2009 and subsequent amendments.*

(iii) *The entire excavated area, backfilling, external OB dumping (including top soil) and afforestation plan shall be in conformity with the "during mining"/"post mining" land-use pattern, which is an integral part of the approved Mining Plan and the EIA/EMP submitted to this Ministry. Progressive compliance status vis-a- vis the post mining land use pattern shall be submitted to the MDEFCC/RO.*

(iv) *Fly ash shall be used for external dump of overburden, backfilling or stowing of mine as per provisions contained in clause (i) and (ii) of sub-paragraph (8) of fly ash notification issued vide SO 2804 (E) dated 3rd November, 2009 as amended from time to time. Efforts shall be made to utilize gypsum generated from Flue Gas Desulfurization (FGD), if any, along with fly ash for external of overburden, backfilling of mines. Compliance report shall be submitted to Regional Office of MoEF&CC, CPCB and SPCB.*

(v) *Further, it may be ensured that as per the time schedule specified in mine Closure plan it should remain live till the point of utilization. The topsoil shall temporarily be stored at earmarked site(s) only and shall not be kept unutilized. The top soil shall be used for land reclamation and plantation purposes. Active OB dumps shall be stabilized with native grass species to prevent erosion and surface run off. The other overburden dumps shall be vegetated with native flora species. The excavated area shall be backfilled and afforested in line with the approved Mine Closure Plan. Monitoring and management of rehabilitated areas snail continue until the vegetation becomes self-*

sustaining. Compliance status shall be submitted to the Ministry of Environment, Forest and Climate Change/ Regional Office.

(vi) The project proponent shall make necessary alternative arrangements, if grazing land is involved in core zone, in consultation with the State government to provide alternate areas for livestock grazing, if any. In this context, the project proponent shall implement the directions of Hon'ble Supreme Court with regard to acquiring grazing land.

G. Green Belt

i. The project proponent shall take all precautionary measures during mining operation for conservation and protection of endangered/endemic flora/fauna, if any, spotted/reported in the study area. The Action plan in this regard, if any, shall be prepared and implemented In consultation with the State Forest and Wildlife Department.

ii. Greenbelt consisting of 3-tier plantation of width not less than 7.5 m shall be developed all along the mine lease area as soon as possible. The green belt comprising a mix of native species (endemic species should be given priority) snail be developed all along the major approach/ coal transportation roads.

H. Public hearing and Human health issues

i. Adequate illumination shall be ensured in all mine locations (as per DGMS standards) and monitored weekly. The report on the same shall be submitted to this ministry & it's RO on six-monthly basis.

ii. The project proponent shall undertake occupational health survey for initial and periodical medical examination of the personnel engaged in the project and maintain records accordingly as per the provisions of the Mines Rules, 1955 and DGMS circulars. Besides regular periodic health check-up, 20% of the personnel identified from workforce engaged in active mining operations shall be subjected to health check up for occupational diseases and hearing impairment, if any, as amended time to time.

iii. Personnel (including outsourced employees) working in core zone shall wear protective respiratory devices and shall also be provided with adequate training and information on safety and health aspect.

iv. *Implementation of the action plan on the issues raised during the public hearing shall be ensured. The project proponent shall undertake all the tasks/measures as per the action plan submitted with budgetary provisions during the public hearing. Land austees shall be compensated as per the norms laid down in the R&R policy of the company/state Government/Central Government, as applicable.*

v. *The project proponent shall follow the mitigation measures provided in this Ministry's OM No.Z-11013/5712014-IA.11 (M) dated 29 October, 2014, titled 'Impact of mining activities on habitations-issues related to the mining projects wherein habitations and villages are the part of mine lease areas or habitations and villages are surrounded the mine lease area.*

I. Corporate Environment Responsibility

(i) The project proponent shall comply with the provisions contained in this Ministry's OM vide F.No.22-65/2017-IA.III dated 01 may, 2018, as applicable, regarding Corporate Environment Responsibility.

(ii) The company shall have a well laid down environmental policy duly approve by the Board of Directors. The environmental policy should prescribe for standard operating procedures to have proper checks and balances and to bring into focus any infringements/deviation/violation of the environmental/forest/wildlife norms/conditions. The company shall have defined system of reporting infringements/deviation/violation of the environmental/forest/wildlife norms/conditions and/or shareholders/stake holders.

(iii) A separate Environmental Cell both at the project and company head quarter level, with qualified personnel shall be set up under the control of senior Executive, who will directly to the head of the organization.

(iv) Action plan for implementing EMP and environmental conditions along with responsibility matrix of the company shall be prepared and shall be duly approved by competent authority. The year wise funds earmarked for environmental protection measures shall be kept in separate account and not to be diverted for any other purpose. Year wise progress of

implementation of action plan shall be reported to the Ministry/Regional Office alongwith the Six Monthly Compliance Report.

(v) Self environmental audit shall be conducted annually. Every three years third party environmental audit shall be carried out.

J. MISCELLANEOUS

(i) The project proponent shall make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the District or State, of which one shall be in the vernacular language within seven days and in addition this shall also be displayed in the project proponent's website permanently.

(ii) The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.

(iii) The project proponent shall upload the status of Compliance of the stipulated environment clearance conditions, including results of monitored data on their website and update the same on half-yearly basis.

(iv) The project proponent shall monitor the criteria pollutants level namely; PM_{10}, SO_2, NOx (ambient levels) or critical sectoral parameters, indicated for the projects and display the same at a convenient location for disclosure to the public and put on the website of the company.

(v) The Project proponent shall submit six-monthly reports on the status of the compliance of the stipulated environmental conditions on the website of the ministry of Environment, Forest and Climate Change at environment clearance portal.

(vi) The project proponent shall follow the mitigation measures provided in this Ministry's OM No. Z-11013/5712014-IA.IA (M) dated 29 October, 2014, titled 'Impact of mining activities on habitations-issues related to the mining projects wherein habitations and villages are the part of mine lease areas or habitations and villages are surrounded by the mine lease area.

(vii) The project proponent shall submit the environmental statement for each financial year in Form-V to the concerned

State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently and put on the website of the company.

(viii) The project authorities shall inform to the Regional Office of the MOEFCC regarding commencement of mining operations.

(ix) The Project Authorities must strictly adhere to the stipulations made by the State Pollution Control Board and the State Government.

(x) The project proponent shall abide by all the commitments and recommendations made in the EIA/EMP report, commitment made during Public Hearing and also that during their presentation to the Expert Appraisal Committee.

xx.....xx.....xx

36. It is argued by the respondent that the district under question falls under the category severely polluted and the information provided by the respondent in the form 1 have been furnished based on the data collected and filtered by the credible agency known as Central Mine Planning and Design Institute Ltd. (CMPDIL), which holds and accreditation in this regard by the National Accreditation Board for Testing and Calibration Laboratories (NABL). The required and available information was submitted in sub-para 4.1 to 4.3 relating to the expansion of the project and there is no other industrial waste other than the respondents mining activity in that area and further that information related to contaminated soil or other materials, solid waste, emission from other sources, emission of light and heat from any other source has already been furnished according to the expert report. The data with regard to the base line was valid up to June, 2019 and the EIA – EMP report was uploaded on the parivesh portal within the time on 18.04.2019, when the base line data was valid and hence, the allegation made that the data was uploaded after the expiry of three years period is not tenable. It is further argued that air monitoring data in the EIA is incorrect while the same was considered in the EIA report. The respondent has submitted that total eight numbers of

air monitoring stations were established for base line data generation. Four stations in Core Zone and four stations were established as per standard terms of reference. The quality of the ambient air was within the permissible limits as prescribed by the central pollution control board and the stations established in the residential area.

37. The data in the EIA/EMP report reveals that the Ambient Air Quality during the question was within the permissible limits because of the mitigation measures being taken by coal mining projects of Northern Coal Fields Limited to reduce to lower level of ambient air pollution, and that the impact prediction for main pollutant PM_{10} has been done and since SOx and NOx are not the main pollutants and their measured concentrations are well known below the permissible limits they have not been considered for impact prediction.

38. It is further argued that –

i. *The mining area is located on the topographical divide, no nallah diversion has been proposed for the Dudhichua OCP expansion. Only firs order streams flow in the mining area which will be pumped out in the downstream side of the respective drainage itself. i.e. outside the mining property where the original course of these nallahs will be maintained.*

ii. *The contents of Para 39 are denied and it is submitted that the remaining water requirement of industrial usage is fulfilled from accumulated rain water in mine sump and domestic water requirement is fulfilled from integrated water supply scheme (IWSS), Khadia which is a unit or NCL created for the purpose of treated water.*

iii. *Land acquired for Dudhichua Project includes land from villages namely Dudhichua, Chilkatand, Karwari Madhauli also as mentioned in core zone. Villagers of these villages have been rehabilitated and resettled outside the core zone in the year 2008. There is no habitation within the core zone area.*

iv. *Action taken report on issues raised during public hearing held on 08.02.2019 were addressed and action place was submitted as Annexure XXX in the EIA report attached at S.*

No. 39 (a) Copy of EIA/EMP of form 2. The same was also discussed during the EAC meeting. It is also incorrect that the EAC had not analyzed and deliberated on the report of public hearing and the grievances raised thereon. The EAC after consideration of the report had raised certain issues on 22.04.2019 through MOEF&CC thereafter it was resubmitted by the proponent/respondent pursuant to the query raised on 22.04.2019 in regard to action plan with budgetary allocation on 05.01.2020.

v. *The land area involved for expansion of Dudhichua OCP is located in Singrauli District of Madhya Pradesh only therefore as per the Terms of Reference granted by the MoEF and CC, the public hearing was conducted at Virendra Samudayik Bhawan, Sector A, Dudhichua" in Singrauli district of Madhya Pradesh. Notice for the public hearing scheduled on 08.02.2019 was published in Newspapers on 08.01.2019 inviting all stakeholders irrespective of locality.*

vi. *That the land area, involved for expansion of Dudhichua OCP is located in Singrauli District of Madhya Pradesh only therefore as per the Terms of Reference granted by the MoEF and CC, the public hearing was conducted at "Virendra Samudayik Bhawan, Sector - A, Dudhichua" in Singrauli District of Madhya Pradesh. Notice for the public hearing scheduled on 08.02.201.9 was published in Newspapers on 08.01.2019 inviting all stakeholders irrespective of locality.*

vii. *That each and every requirement and formalities were completed in the process of the study for environment impact assessment. The public hearing was conducted by the Madhya Pradesh Pollution Control Board and their complete information was provided to the stakeholders at the time of hearing and accordingly the environment Impact Assessment was prepared by CMPDIL. The same was also submitted on the EAC.*

viii. *Dudhichua has already obtained final approval for 555 Ha. Forest land in Uttar Pradesh. Forest clearance for khadia project admeasuring 750 Ha of Northern Coal Fields was granted in the year 1994 and forest clearance for area admeasuring 194.78 Ha of forest in Madhya Pradesh has*

been has been granted already in 2005. Further, for expansion, Stage-I clearance has already been obtained for 467.809 Ha land vide letter dated 19.04.2018 and clearance for Stage - II is under process. There is no work/operation is presently being carried out in the area of 467.809 Ha. forest land.

39. The matter of ambient air quality and water quality was assessed and studied by the CMPDI and in its report the matter was discussed as follows :

Existing environmental scenario:

***Environmental baseline Study**: The present environmental quality assessment, impacts, and mitigation measures has been carried out by generating the baseline data of environmental quality parameters such as ambient air & micro-meteorology, water, Noise levels, soil, flora & fauna socio economic & occupational health, land use survey by remote sensing, hydro geological data, water levels etc. Environmental baseline study for the project has already been completed in pre-monsoon (March-June 2016).*

***Socio-Economic & Occupational Health study** :NCL through CMPDIL entrusted Socio-economic and occupational Health for Dudhichua Expn. Project to M/S VRDS Consultants, Chennai. The study reveals that the expansion of the Dudhichua OCP will enhance the socio-economic acclivities, physical infrastructure in the adjoining areas, This will result in improvements in Physical infrastructure, improvements in Social infrastructure, and increase in Employment Potential contribution to the Postmining enhancement of Green cover.*

***Baseline Data on ambient air with micro-meteorology,** water, noise, and soil: The site specific data are recorded for three months period (From March-June 2016) M/S CEG, Test House & research station Pvt. Ltd. Jaipur -Rajasthan. Details of Base line data on meteorology, air, water, noise and soil are given.*

***Ambient air quality:** In order to assess ambient air quality of study area of Dudhichua Expn. Project a meteorological station was installed in Core zone al GM's Office of Dudhichua*

Project which represents the prevailing micro meteorological aspects of the study area.

The baseline ambient air quality data were recorded for three months period (From March to June, 2016) by selecting four core zone & four Buffer zone stations. The Buffer Zone AAQ monitoring stations, were selected in the village, area considering upwind and downwind direction as well as to represent the cross sectional scenario of the project site Based on the production activities. The parameter chosen for assessment of ambient air quality are SPM, PM_{10}, $PM_{2.5}$, SO_2 , NO_x and heavy metals such as Pb, As, Ni, Cr, Cd, Hg and Free silica in PM_{10}.

Water quality scenario *: In order to assess the water quality of study area of Dhudhichua Expn. Project, the water sampling was done at different location in -and around the area representing waste water/treated water, drinking ground water and surface water sources. Water sampling stations are selected to assess the effect of mining activities on the water quality in surrounding area as well as in the township. The water quality analysis results along with prescribed standard are presented. The analysis results reveals that all the parameters were within the prescribed standards.*

Noise Levels*: In order to assess the Noise level in study area of Dudhichua Expn, Project, the Noise level recording was done at 08 different locations. Ambient noise levels were recorded during day and night time and the observed values were compared with standards prescribed by MoEFCC. The results are found to be within permissible limits. The noise level data for various locations appended.*

Soil quality *: in order to assess The soil quality of study area of Dudhichua project, soil samples were collected in disturbed and undisturbed condition and analysed in the laboratory. To assess the baseline soil quality, samples are collected from identified locations using auger at depth 30, 60 and 100 cms . The samples are analysed for chemical parameters like pH, EC, N, P, K and engineering parameters like textural class, specific gravity, liquid limit, plastic limit, field capacity, witing coefficient and available water holding capacity. Details of analysis is given.*

***Impact Assessment and Pollution Control measures for ambient air**: The pollution sources are obvious and to assess the impact, the project life is divided into operational & post . operational phase. Details of impact assessment including prediction of air quality due to expansion by modeling is given.. Appropriate mitigative measures to control the air pollution due to different activities like drilling blasting, loading and transportation, coal handling etc have been suggested in the above chapter.*

***Impact assessment & pollution control measures for water**: Sanitary , (domestic) waste water, Industrial wastewater from workshop, Wastewater from mine, Surface run-off passing through coal stockpiles, Storm water from - leasehold area and built-up area are likely sources of water pollution from this project. The industrial and domestic waste water are being treated in existing ETP and STP and re-use. The ETP and STP has sufficient capacity to cater the need of Expansion. Impact of above sources on Hydrology & ground water have been assessed & appropriate mitigative measures have been suggested.*

***Impact assessment & pollution control measures for noise & balance:** In Dudhichua Open cast mine the sources of noise are drilling & blasting operation in Coal and OB, operation of HEMMs, operation of equipment in CHP, workshop. etc. presently at existing production level Noise levels are within the limits of the prescribed standard. The noise level in and around the project is not likely to increase in future due to expansion of Dudhichua Mine, as there is no increase oin equipment. In case noise levels exceed the permissible limit, its adverse impacts have been assessed and appropriate mitigative measures have been suggested.*

***Impact on Land Resource and Its Management**: The total land required for the mining & infrastructures etc. of Dudhichua project is 2390.722 ha. The probable causes for land degradation are as a result of quarry excavation. overburden dumping, civil construction, approach roads etc. Land use pattern of Dudhichua OCP will be changed during mining operations. This changes has both beneficial & adverse impact. At post-mining stage land will be reclaimed to an environmentally acceptable state as pre-mining stage, if*

not better. Forestry is the end objective adopted for final land use.

Impact on flora and fauna: *The study report reveals. Tht there is no endangered or endemic floral species in the core &.buffer zone of study area. Also, there is no migratory corridor of any endangered fauna species in the core as well as in buffer zone of study area. Therefore no separate conservation plan is required. The impact on flora & fauna is not that serious.*

Impact on meteorology: *The mining operation is a physical operation which involves excavation and material handling- No significant micrometeorological condition wilt be affected by the increased mining activities.*

40. In chapter XII disclosure of consultant in case has been mentioned and CMPDI is said to be registered consultant to Voda Bank, Asian Development Bank, African Development Bank, United Nations Development Programme and other Encs. Accordingly, we are of the view, that the information provided by the Project Proponent in Form No. 1 was in accordance with the available information and there is sufficient and complete discussion and decision on the EIA and available base line data for consideration of Ambient Air Quality was considered and the air model for air modelling have been used as per available model, the impact of blasting, noise, vibration and air pollution was duly considered by EIA and natural drainage and the detail water balance has also been considered by the concerned committee while scrutinizing the EAC.

N. PUBLIC HEARING

41. It is argued that no public hearing was conducted in affected areas while the EIA notifications required as follows :

"49.That as per the Paragraph 7 (III) (i) of the EIA Notification, 2006:

(i) "Public Consultation" refers to the process by which the ***concerns of local affected persons*** *and others who have plausible stake in the environmental impacts of*

the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate.

(ii) The Public Consultation shall ordinarily have two components comprising of:-

(iii) A public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons.

50. It is submitted that as is clear from the above, the EIA Notification, 2006 requires that all locally affected individuals are treated as stakeholders in the future of an upcoming project in the area and likewise, as stated in Appendix IV of the Notification, all efforts are to be made by the concerned regulatory bodies (Pollution Control Boards) that the widest possible circulation of notice of public hearing is undertaken to make the process of Environmental Clearance as democratic as possible.

51. That in the Appendix IV of the E1A Notification' 2006 it is clearly mentioned that:-

> *" In case the project site is covering more than one District' State- or Union Territory in which the project is located the applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this Procedure."*

52. That the above mandatory provision of EIA provisions has been totally overlooked in this case by the EAC while recommending the Project.

53. That the mining lease area intersects the border between Madhya Pradesh and Uttar Pradesh, as is clear from the EC and the Location Map provided in the EIA report prepared by the project proponent, it is submitted that the Public Hearing for the said mining project was only conducted in Singrauli, Madhya Pradesh and not in the adjoining and affected areas within Sonbhedra District of Uttar Pradesh despite the fact that the Mining Lease Area intersects the border between the two States. The appellant submits that this is a serious lapse and corresponding violation of the EIA Notification, 2006.

54. That the EC dated 20.3.2020 was granted to the project proponent only based on Public Hearing proceedings conducted in Madhya Pradesh thereby making the process of public hearing incomplete.. The appellant submits that the said EC dated 20.03.2020 is liable to be quashed on this ground alone. Further, as per the Form 1 Part (III) titled 'Environmental Sensitivity' under Appendix I of the EIA Notification, 2006, disclosures with respect to 15 kilometer aerial distance from the proposed project location boundary have to be provided by the project proponent clearly showing that the legislature intended that the impact over the entire surrounding area of a project needs to be considered which has conveniently been given bypassed by the EAC.

PUBLIC HEARING HAS BEEN DONE ON THE BASIS OF AN INCOMPLETE EIA REPORT

55. That Project Proponent has submitted an incomplete EIA study to the EAC without any Executive Summary, Public Hearing Proceedings, without giving status of Land acquisition or green belt, without giving NABL certificate of sub consultant engaged by main certificate, without giving any impact prediction for-So2, NOx and $PM_{2.5}$, as there was discrepancy in the GLC levels. These all and other similar aspect/parameters were material for any EIA to be complete but the Project Proponent has submitted the incomplete EIA in April, 2019 itself in order to escape from the time period provided for validity of the data in the OM dated 29th August, 2017. This also shows that the queries on the above issues have been responded to by the Project Proponent on 22.01.202O and hence all the 15 issues the EIA was incomplete and data deficient and hence the EIA which was given to the Public before the Public Hearing too was incomplete and so the Public Hearing was a sham being based on an incomplete EIA study. It is stated that the Public Hearing is not in terms of the EIA Notification, 2006

42. In the reply submitted by the Respondent No.3/Madhya Pradesh Pollution Control Board it has been submitted that the Environmental Clearance (EC) are granted as per the provisions of the EIA notification according to which the EC applications are decided by the MoEF&CC. The public hearing for the

project was conducted on 08.02.2019 for the expansion of the project, in the presence of Collector and Regional Officer, Madhya Pradesh Pollution Control Board, the industry representatives and general public at large, after due publication of the same in all local news papers. The Madhya Pradesh Pollution Control Board has also installed a Continuous Ambient Air Quality Monitoring Stations (CAAQMS) at NCL Dudhichua Singrauli. The Project Proponent and rest of the respondents have submitted that the public hearing was conducted by the Madhya Pradesh Pollution Control Board and the complete information was provided to the stakeholders well within time. Since the land area involved for expansion of Dudhichua OCP is located in Singrauli District of Madhya Pradesh only therefore as per the terms of reference granted by the MoEF&CC the public hearing was conducted at Singruli in District Madhya Pradesh and the notice for the public hearing was issued in the news papers of affected areas.

43. In the present case, nothing has been shown by the petitioner that there is a case of failure to exercise the discretion or excess or abuse of discretionary power vested to the respondents. Learned counsel for the petitioner has submitted that the opportunity of public hearing was not provided to the petitioner before passing the order impugned.

44. On the other hand, learned counsel for the respondents has submitted that the opportunity of hearing was provided to the petitioner.

45. It cannot be doubted that the principles of natural justice cannot be put into a strait-jacket formula and that its application will depend upon the fact situation obtaining therein. It cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case. This is what has been held by the Supreme Court in ***K.L. Tripathi Vs. State Bank of India &Ors., AIR 1984 SC 273; N.K. Prasada Vs. Government of India &Ors., (2004) 6 SCC 299; State of Punjab Vs. Jagir Singh, (2004) 8 SCC 129; Karnataka SRTC &Anr. Vs. S.G. Kotturappa&Anr., (2005) 3 SCC 409; and in Viveka Nand Sethi Vs. Chairman, J&K Bank Ltd., (2005) 5 SCC 337.***

46. ***In Chairman, Board of Mining Examination and Chief Inspector of Mines & Anr. Vs. Ramjee, AIR 1977 SC 965*** the Court has observed that natural justice is not an unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference of the administrative realities and other factors of a given case, can be exasperating. The Courts cannot look at law in the abstract or natural justice as a mere artefact. Nor can they fit into a rigid mould the concept of reasonable opportunity. If the totality of circumstances satisfies the Court that the party visited with adverse order has not suffered from denial of reasonable opportunity, the Court will decline to be punctilious or fanatical as if the rules of natural justice were sacred scriptures.

47. In ***Union of India Vs. Tulsiram Patel, AIR 1985 SC 1416*** the Hon'ble Supreme Court held:-

> *"Though the two rules of natural justice, namely, nemojudex in causasua and audi alteram partem, have now a definite meaning and connotation in law and their content and implications are well understood and firmly established, they are nonetheless not statutory rules. Each of these rules yields to and changes with the exigencies of different situations. They do not apply in the same manner to situations which are not alike. These rules are not cast in a rigid mould nor can they be put in a legal straitjacket. They are not immutable but flexible."*

48. It is equally well settled that the principles of natural justice must not be stretched too far and in this connection reference may be made to the decisions of the Supreme Court in ***SohanLal Gupta &Ors. Vs. Asha Devi Gupta &Ors., (2003) 7 SCC 492; Mardia Chemicals Ltd. Vs. Union of India, AIR 2004 SC 2371 and Canara Bank Vs. Debasis Das, AIR 2003 SC 2041***.

49. In ***Hira Nath Mishra & Ors. Vs. The Principal, Rajendra Medical College, Ranchi &Anr. AIR 1973 SC 1260***, the Hon'ble Supreme Court held that principles of natural justice are not inflexible and may differ in different circumstances. Rules of natural justice cannot remain the same applying to all conditions.

50. The Constitution Bench of the Supreme Court in ***Managing Director ECIL, Hyderabad Vs. B. Karunakar, AIR 1994 SC 1074*** made reference to its earlier decisions and observed:-

> "***In A.K. Kraipak & Ors. Vs. Union of India &Ors., AIR 1970 SC 150***, *it was held that the rules of natural justice operate in areas not covered by any law. They do not supplant the law of the land but supplement it. They are not embodied rules and their aim is to secure justice or to prevent miscarriage of justice. If that is their purpose, there is no reason why, they should not be made applicable to administrative proceedings also especially when it is not easy to draw the line that demarcates administrative enquiries from quasi-judicial ones. An unjust decision in an administrative inquiry may have a more far reaching effect than a decision in a quasi judicial inquiry. It was further observed that the concept of natural justice has undergone a great deal of change in recent years. What particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the inquiry is held and the constitution of the tribunal or the body of persons appointed for that purpose. Whenever a complaint is made before a Court that some principle of natural justice has been contravened, the Court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case. The rule that inquiry must be held in good faith and without bias and not arbitrarily or unreasonably is now included among the principles of natural justice."*
>
> *(Emphasis added)"*

51. The Hon'ble Supreme Court in *Bihar School Examination Board Vs. Subhas Chandra Sinha & Ors., AIR 1970 SC 1269* while considering the cancellation of the entire examination because of use of mass copy considered the scope of the principles of natural justice in such a matter and observed :-

"It was not necessary for the Board to give an opportunity to the candidates if the examinations as a whole were being cancelled. The Board had not charged any one with unfair means so that he could claim to defend himself. The examination was vitiated by adoption of unfair means on a mass scale. In these circumstances it would be wrong to insist that the Board must hold a detailed inquiry into the matter and examine each individual case to satisfy itself which of the candidates had not adopted unfair means. The examination as a whole had to go....."

52. After referring to the aforesaid decision, the Supreme Court in ***Chairman J&K State Board of Education Vs. Feyaz Ahmed Malik, AIR 2000 SC 1039***, emphasized that the Board is entrusted with the duty of proper conduct of examinations.

53. In ***Biswa Ranjan Sahoo & Ors., Vs. Sushanta Kumar Dinda & Ors., AIR 1996 SC 2552***, the Hon'ble Supreme Court had the occasion to examine whether principles of natural justice were required to be followed in a matter where because of large scale malpractice in the selection process, the selection was cancelled and in this context it was observed:-

"Nothing would become fruitful by issuance of notice. Fabrication would obviously either be not known or no one would come forward to bear the brunt. Under these circumstances, the Tribunal was right in not issuing notice to the persons who are said to have been selected and given selection and appointment."

54. In ***Union of India &Ors. Vs. O. Chakradhar, AIR 2002 SC 1119,*** the Hon'ble Supreme Court considered the question whether it was necessary to issue individual show cause notices to each selected person when the entire selection was cancelled because of widespread and all pervasive irregularities affecting the result of selection and it was observed:-

"The illegality and irregularity are so intermixed with the whole process of the selection that it becomes impossible to sort out right from the wrong or vice versa. The result of such a selection cannot be relied or acted upon. It is not a case where a question of misconduct on the part of a candidate is to be gone into but a case where those who conducted the selection have rendered it wholly unacceptable."

55. In the case of ***S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. &Ors., AIR 1994 SC 853,*** the Hon'ble Supreme Court refused to interfere on the ground of breach of principles of natural justice by observing that a person, whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation.

56. It is further to be noted that the Court is to proceed as to whether non-observance of any of the principles enshrined in statutory rules or principles of natural justice have resulted in deflecting the course of justice. Even, if in a given case, like the fact of the present case there may be some deviation but it has not resulted in grave injustice or has not prejudiced the cause of the petitioner because the decision taken by the respondent was based on the scientific report. This Court does not function as a Court of appeal on the finding of scientific report submitted by the experts. On examining the facts and circumstances of the present case, it cannot be held that the process adopted or decision made by the respondents is in anyway arbitrary or irrational or in any way in violation of the principles of natural justice. The conclusion is that the petition is devoid of merit and deserves to be dismissed.

57. Natural justice is at least as old as the first man created on earth – the biblical 'Adam'. J.R. Lucas in his book 'On Justice' states (at page 86):

> *"Hence, when we are judging deeds, and may find that a man did wrong, there is a requirement of logic that we should allow the putative agent to correct misinterpretations or disavow the intention imputed to him or otherwise disown the action. God needed to ask Adam 'Hast thou eaten of the tree whereof I commanded thee that thou shouldest not eat?' Because it was essential that Adam should not be blamed or punished unless he had done exactly that deed. If the serpent had planted the evidence, or if he had beguiled Adam into eating it under the misapprehension that it came from another, non-forbidden tree, then Adam had not sinned and should not have been expelled from Eden. Only if the accused admits the charge, or, faced with the accusation, cannot explain his behaviour*

convincingly in any other way, are we logically entitled to conclude that he did indeed do it."

58. In some of the early judgments of this Court, the non-observance of natural justice was said to be prejudice in itself to the person affected, and proof of prejudice, independent of proof of denial of natural justice, was held to be unnecessary. The only exception to this rule is where, on "admitted or indisputable" facts only one conclusion is possible, and under the law only one penalty is permissible. In such cases, a Court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice, but because Courts do not issue writs which are "futile" – see ***S.L. Kapoor v. Jagmohan and Ors. (1980) 4 SCC 379*** **at paragraph 24. In *P.D. Agrawal v. State Bank of India and Ors. (2006) 8 SCC 776***, however, the Court observed that this statement of the law has undergone a "sea change", as follows:

> *"39. Decision of this Court in S.L. Kapoor v. Jagmohan [(1980) 4 SCC 379] whereupon Mr Rao placed strong reliance to contend that non-observance of principle of natural justice itself causes prejudice or the same should not be read "as it causes difficulty of prejudice", cannot be said to be applicable in the instant case. The principles of natural justice, as noticed hereinbefore, have undergone a sea change. In view of the decisions of this Court in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364] and Rajendra Singh v. State of M.P. [(1996) 5 SCC 460] the principle of law is that some real prejudice must have been caused to the complainant. The Court has shifted from its earlier concept that even a small violation shall result in the order being rendered a nullity. To the principle/doctrine of audi alteram partem, a clear distinction has been laid down between the cases where there was no hearing at all and the cases where there was mere technical infringement of the principle. The Court applies the principles of natural justice having regard to the fact situation obtaining in each case. It is not applied in a vacuum without reference to the relevant facts and circumstances of the case. It is no unruly horse. It cannot be put in a straitjacket formula."*
> *(emphasis supplied)*

59. Equally, the prejudice that is caused, apart from natural justice itself being denied, cannot be said to be present in a case in which there are admitted facts. Thus, in ***K.L. Tripathi v. State Bank of India and Ors. (1984) 1 SCC 43***, the Court held:

> *"29. We are of the opinion that Mr. Garg is right that the rules of natural justice as we have set out hereinbefore implied an opportunity to the delinquent officer to give evidence in respect of the charges or to deny the charges against him. Secondly, he submitted that even if the rules had no statutory force and even if the party had bound himself by the contract, as he had accepted the Staff Rule, there cannot be any contract with a Statutory Corporation which is violative of the principles of natural justice in matters of domestic enquiry involving termination of service of an employee. We are in agreement with the basic submission of Mr. Garg in this respect, but we find that the relevant rules which we have set out hereinbefore have been complied with even if the rules are read that requirements of natural justice were implied in the said rules or even if such basic principles of natural justice were implied, there has been no violation of the principles of natural justice in respect of the order passed in this case. In respect of an order involving adverse or penal consequences against an officer or an employee of Statutory Corporations like the State Bank of India, there must be an investigation into the charges consistent with the requirements of the situation in accordance with the principles of natural justice as far as these were applicable to a particular situation. So whether a particular principle of natural justice has been violated or not has to be judged in the background of the nature of charges, the nature of the investigation conducted in the background of any statutory or relevant rules governing such enquiries. Here the infraction of the natural justice complained of was that he was not given an opportunity to rebut the materials gathered in his absence. As has been observed in On Justice by J.R. Lucas, the principles of natural justice basically, if we may say so, emanate from the actual phrase "audi alteram partem" which was first formulated by St. Augustine (De Duabus Animabus, XIV, 22 J.P. Migne, PL. 42, 110).*
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> xxx xxx xxx
>
> *32. The basic concept is fair play in action administrative, judicial or quasi-judicial. The concept of fair play in action must depend upon*

the particular lis, if there be any, between the parties. If the credibility of a person who has testified or given some information is in doubt, or if the version or the statement of the person who has testified, is, in dispute, right of cross-examination must inevitably form part of fair play in action but where there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross-examination to be fulfilled to justify fair play in action. When on the question of facts there was no dispute, no real prejudice has been caused to a party aggrieved by an order, by absence of any formal opportunity of cross-examination per se does not invalidate or vitiate the decision arrived at fairly. This is more so when the party against whom an order has been passed does not dispute the facts and does not demand to test the veracity of the version or the credibility of the statement.

33. The party who does not want to controvert the veracity of the evidence from record or testimony gathered behind his back cannot expect to succeed in any subsequent demand that there was no opportunity of cross-examination specially when it was not asked for and there was no dispute about the veracity of the statements. Where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, absence of opportunity to cross examination does not create any prejudice in such cases." (emphasis supplied)

60. Likewise, in ***State of U.P. v. Neeraj Awasthi and Ors. (2006) 1 SCC 667***, this Court held that where, on undisputed facts, a retrenchment would be valid in law, the principles of natural justice would not be attracted, unless there is some stigma or punitive measure which would be attached, which would then cause prejudice, as follows:

"47. If the employees are workmen within the purview of the U.P. Industrial Disputes Act, they are protected thereunder. Rules 42 and 43 of the U.P. Industrial Disputes Rules provide that before effecting any retrenchment in terms of the provisions of Section 6-N of the U.P. Industrial Disputes Act, the employees concerned would be entitled to a notice of one month or in lieu thereof pay for one month and 15 days' wages for each completed year of service by way of compensation. If such a retrenchment is effected under the Industrial Disputes Act, the question of complying with the principles of natural justice would not arise. The principle of

natural justice would be attracted only when the services of some persons are terminated by way of a punitive measure or thereby a stigma is attached.

48. In Viveka Nand Sethi v. Chairman, J&K Bank Ltd. [(2005) 5 SCC 337] it was held: (SCC p. 345, para 22)

"22. The principle of natural justice, it is trite, is no unruly horse. When facts are admitted, an enquiry would be an empty formality. Even the principle of estoppel will apply. [See Gurjeewan Garewal (Dr.) v. Dr. Sumitra Dash [(2004) 5 SCC 263].] The principles of natural justice are required to be complied with having regard to the fact situation obtaining therein. It cannot be put in a straitjacket formula. It cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case."

49. The High Court, therefore, must be held to have erred in law in holding that the principles of natural justice were required to be complied with."

61. In the five-Judge Bench decision in ***Managing Director, ECIL and Ors. v. B. Karnakumar and Ors. (1993) 4 SCC 727***, this Court, after discussing the constitutional requirement of a report being furnished under Article 311(2), held thus:

"30. Hence the incidental questions raised above may be answered as follows:

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[v] The next question to be answered is what is the effect on the order of punishment when the report of the enquiry officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back-wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to

assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an "unnatural expansion of natural justice" which in itself is antithetical to justice.

31. Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the Court/Tribunal and give the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the Court/Tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment. The Court/Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to short cuts. Since it is the Courts/Tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the Court/Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment." (emphasis supplied)

62. *B. Karunakar (supra)* was followed by this Court in ***Haryana Financial Corporation and Anr. v. Kailash Chandra Ahuja (2008) 9 SCC 31***, as follows:

> *"21. From the ratio laid down in B. Karunakar [(1993) 4 SCC 727] it is explicitly clear that the doctrine of natural justice requires supply of a copy of the inquiry officer's report to the delinquent if such inquiry officer is other than the disciplinary authority. It is also clear that non-supply of report of the inquiry officer is in the breach of natural justice. But it is equally clear that failure to supply a report of the inquiry officer to the delinquent employee would not ipso facto result in the proceedings being declared null and void and the order of punishment non and ineffective. It is for the delinquent employee to plead and prove that non-supply of such report had caused prejudice and resulted in miscarriage of justice. If he is unable to satisfy the court on that point, the order of punishment cannot automatically be set aside." (emphasis in original)*

63. What is important to note is that it is the Court or Tribunal which must determine whether or not prejudice has been caused, and not the authority on an ex-parte appraisal of the facts. This has been well explained in a later judgment, namely *Dharampal Satyapal Ltd. v. Dy. Comm. Of Central Excise, Gauhati and Ors. (2015) 8 SCC 519*, in which, after setting out a number of judgments, this Court concluded:

> *"38. But that is not the end of the matter. While the law on the principle of audi alteram partem has progressed in the manner mentioned above, at the same time, the courts have also repeatedly remarked that the principles of natural justice are very flexible principles. They cannot be applied in any straitjacket formula. It all depends upon the kind of functions performed and to the extent to which a person is likely to be affected. For this reason, certain exceptions to the aforesaid principles have been invoked under certain circumstances. For example, the courts have held that it would be sufficient to allow a person to make a representation and oral hearing may not be necessary in all cases, though in some matters, depending upon the nature of the case, not only full-fledged oral hearing but even cross-examination of witnesses is treated as a necessary concomitant of the principles of natural justice. Likewise, in service matters relating to major punishment by way of disciplinary action, the requirement is very strict and full-fledged opportunity is envisaged under the statutory*

rules as well. On the other hand, in those cases where there is an admission of charge, even when no such formal inquiry is held, the punishment based on such admission is upheld. It is for this reason, in certain circumstances, even post-decisional hearing is held to be permissible. Further, the courts have held that under certain circumstances principles of natural justice may even be excluded by reason of diverse factors like time, place, the apprehended danger and so on.

39. We are not concerned with these aspects in the present case as the issue relates to giving of notice before taking action. While emphasising that the principles of natural justice cannot be applied in straitjacket formula, the aforesaid instances are given. We have highlighted the jurisprudential basis of adhering to the principles of natural justice which are grounded on the doctrine of procedural fairness, accuracy of outcome leading to general social goals, etc. Nevertheless, there may be situations wherein for some reason—perhaps because the evidence against the individual is thought to be utterly compelling it is felt that a fair hearing "would make no difference"—meaning that a hearing would not change the ultimate conclusion reached by the decisionmaker—then no legal duty to supply a hearing arises. Such an approach was endorsed by Lord Wilberforce in Malloch v. Aberdeen Corpn. [(1971) 1 WLR 1578], who said that: (WLR p. 1595)

"... A breach of procedure ... cannot give [rise to] a remedy in the courts, unless behind it there is something of substance which has been lost by the failure. The court does not act in vain."

Relying on these comments, Brandon L.J. opined in Cinnamond v. British Airports Authority [(1980) 1 WLR 582] that: (WLR p. 593)
"... no one can complain of not being given an opportunity to make representations if such an opportunity would have availed him nothing."

In such situations, fair procedures appear to serve no purpose since the "right" result can be secured without according such treatment to the individual.

40. In this behalf, we need to notice one other exception which has been carved out to the aforesaid principle by the courts. Even if it

is found by the court that there is a violation of principles of natural justice, the courts have held that it may not be necessary to strike down the action and refer the matter back to the authorities to take fresh decision after complying with the procedural requirement in those cases where non-grant of hearing has not caused any prejudice to the person against whom the action is taken. Therefore, every violation of a facet of natural justice may not lead to the conclusion that the order passed is always null and void. The validity of the order has to be decided on the touchstone of "prejudice". The ultimate test is always the same viz. the test of prejudice or the test of fair hearing.

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42. So far so good. However, an important question posed by Mr Sorabjee is as to whether it is open to the authority, which has to take a decision, to dispense with the requirement of the principles of natural justice on the ground that affording such an opportunity will not make any difference? To put it otherwise, can the administrative authority dispense with the requirement of issuing notice by itself deciding that no prejudice will be caused to the person against whom the action is contemplated? Answer has to be in the negative. It is not permissible for the authority to jump over the compliance of the principles of natural justice on the ground that even if hearing had been provided it would have served no useful purpose. The opportunity of hearing will serve the purpose or not has to be considered at a later stage and such things cannot be presumed by the authority.

This was so held by the English Court way back in the year 1943 in General Medical Council v. Spackman [1943 AC 627]. This Court also spoke in the same language in Board of High School and Intermediate Education v. Chitra Srivastava [(1970) 1 SCC 121], as is apparent from the following words: (SCC p. 123, para 7)

"7. The learned counsel for the appellant, Mr C.B. Agarwala, contends that the facts are not in dispute and it is further clear that no useful purpose would have been served if the Board had served a show-cause notice on the petitioner. He says that in view of these circumstances it was not necessary for the Board to have issued a show-cause notice. We are unable to accept this contention. Whether a duty arises in a particular case to issue a show-cause notice before inflicting a penalty does not depend on

the authority's satisfaction that the person to be penalised has no defence but on the nature of the order proposed to be passed."

43. In view of the aforesaid enunciation of law, Mr Sorabjee may also be right in his submission that it was not open for the authority to dispense with the requirement of principles of natural justice on the presumption that no prejudice is going to be caused to the appellant since the judgment in R.C. Tobacco [(2005) 7 SCC 725] had closed all the windows for the appellant.

44. At the same time, it cannot be denied that as far as courts are concerned, they are empowered to consider as to whether any purpose would be served in remanding the case keeping in mind whether any prejudice is caused to the person against whom the action is taken. This was so clarified in ECIL itself in the following words: (SCC p. 758, para 31)

"31. Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the courts and tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the court/tribunal and given the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the court/tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the court/tribunal should not interfere with the order of punishment. The court/tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to short cuts. Since it is the courts/tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the court/tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment."

45. Keeping in view the aforesaid principles in mind, even when we find that there is an infraction of principles of natural justice,

we have to address a further question as to whether any purpose would be served in remitting the case to the authority to make fresh demand of amount recoverable, only after issuing notice to show cause to the appellant. In the facts of the present case, we find that such an exercise would be totally futile having regard to the law laid down by this Court in R.C. Tobacco [(2005) 7 SCC 725]."

(emphasis supplied)

64. In *State Bank of Patiala and Ors. v. S.K. Sharma (1996) 3 SCC 364*, a Division Bench of the Court distinguished between "adequate opportunity" and "no opportunity at all", and held that the "prejudice" exception operates more especially in the latter case. This judgment also speaks of procedural and substantive provisions of law which embody the principles of natural justice which, when infracted, must lead to prejudice being caused to the litigant in order to afford him relief, as follows:

"32. Now, coming back to the illustration given by us in the preceding para, would setting aside the punishment and the entire enquiry on the ground of aforesaid violation of sub-clause (iii) be in the interests of justice or would it be its negation? In our respectful opinion, it would be the latter. Justice means justice between both the parties. The interests of justice equally demand that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice. Principles of natural justice are but the means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end. That would be a counterproductive exercise.

33. We may summarise the principles emerging from the above discussion. (These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

(1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the

Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.

(2) A substantive provision has normally to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under — "no notice", "no opportunity" and "no hearing" categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) hereinbelow is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in B. Karunakar [(1993) 4 SCC 727]. The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

(5) Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice — or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action — the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be made between "no opportunity" and no adequate opportunity, i.e., between "no notice"/"no hearing" and "no fair hearing". (a) In the case of former, the order passed would undoubtedly be invalid (one may call it 'void' or a nullity if one chooses to). In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem). (b) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the standpoint of prejudice; in other words, what the Court or Tribunal has to see is

whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. [It is made clear that this principle (No. 5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.]

(6) While applying the rule of audi alteram partem (the primary principle of natural justice) the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

(7) There may be situations where the interests of State or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision."

65. In *M.C. Mehta v. Union of India and Ors. (1999) 6 SCC 237*, the expression "admitted and indisputable facts" laid down in *Jagmohan* (*supra*), as also the interesting divergence of legal opinion on whether it is necessary to show "slight proof" or "real likelihood" of prejudice, or the fact that it is an "open and shut case", were all discussed in great detail as follows:

"16. Courts are not infrequently faced with a dilemma between breach of the rules of natural justice and the Court's discretion to refuse relief even though the rules of natural justice have been breached, on the ground that no real prejudice is caused to the affected party.

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22. Before we go into the final aspects of this contention, we would like to state that cases relating to breach of natural justice do also occur where all facts are not admitted or are not all beyond dispute. In the context of those cases there is a considerable case-law and literature as to whether relief can be refused even if the court thinks that the case of the applicant is not one of "real substance" or that there is no substantial possibility of his success or that the result will not be different, even if natural justice is followed. See Malloch v. Aberdeen Corpn. [(1971) 1 WLR 1578] (per Lord Reid and Lord Wilberforce), Glynn v. Keele University [(1971) 1 WLR 487], Cinnamond v. British Airports Authority [(1980) 1 WLR

582] and other cases where such a view has been held. The latest addition to this view is R. v. Ealing Magistrates' court, ex p Fannaran [(1996) 8 Admn LR 351, 358] (Admn LR at p. 358) (see de Smith, Suppl. p. 89) (1998) where Straughton, L.J. held that there must be "demonstrable beyond doubt" that the result would have been different. Lord Woolf in Lloyd v. McMahon [(1987) 2 WLR 821, 862] (WLR at p. 862) has also not disfavoured refusal of discretion in certain cases of breach of natural justice. The New Zealand Court in McCarthy v. Grant [1959 NZLR 1014] however goes halfway when it says that (as in the case of bias), it is sufficient for the applicant to show that there is "real likelihood — not certainty — of prejudice". On the other hand, Garner Administrative Law (8th Edn., 1996, pp. 271-72) says that slight proof that the result would have been different is sufficient. On the other side of the argument, we have apart from Ridge v. Baldwin [1964 AC 40], Megarry, J. in John v. Rees [(1969) 2 WLR 1294] stating that there are always "open and shut cases" and no absolute rule of proof of prejudice can be laid down. Merits are not for the court but for the authority to consider. Ackner, J. has said that the "useless formality theory" is a dangerous one and, however inconvenient, natural justice must be followed. His Lordship observed that "convenience and justice are often not on speaking terms". More recently Lord Bingham has deprecated the "useless formality" theory n R. v. Chief Constable of the Thames Valley Police Forces, ex p Cotton [1990 IRLR 344] by giving six reasons. (See also his article "Should Public Law Remedies be Discretionary?" 1991 PL, p. 64.) A detailed and emphatic criticism of the "useless formality theory" has been made much earlier in "Natural Justice, Substance or Shadow" by Prof. D.H. Clark of Canada (see 1975 PL, pp. 27-63) contending that Malloch [(1971) 1 WLR 1578] and Glynn [(1971) 1 WLR 487] were wrongly decided. Foulkes (Administrative Law, 8th Edn., 1996, p. 323), Craig (Administrative Law, 3rd Edn., p. 596) and others say that the court cannot prejudge what is to be decided by the decision-making authority de Smith (5th Edn., 1994, paras 10.031 to 10.036) says courts have not yet committed themselves to any one view though discretion is always with the court. Wade (Administrative Law, 5th Edn., 1994, pp. 526-30) says that while futile writs may not be issued, a distinction has to be made according to the nature of the decision. Thus, in relation to cases other than those relating to admitted or indisputable facts, there is a considerable divergence of opinion whether the applicant can be compelled to prove that the outcome will be in his favour or he has to prove a case of substance or if he can prove a "real likelihood" of success or if he is entitled to relief even if there is some remote chance of success. We may, however, point out that even in cases where the facts are not all admitted or beyond dispute, there is a considerable unanimity that the courts can, in exercise of their "discretion", refuse certiorari, prohibition, mandamus or injunction even though natural justice is not followed. We may also state that there is yet another line of cases as in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364], Rajendra Singh v. State of M.P. [(1996) 5 SCC 460] that even in relation to statutory provisions requiring notice, a distinction is to be made between cases where the provision is intended for individual benefit and where a provision is intended to protect public interest. In the former case, it can be waived while in the case of the latter, it cannot be waived.

23. We do not propose to express any opinion on the correctness or otherwise of the "useless formality" theory and leave the matter for decision in an appropriate case, inasmuch as, in the case before

us, "admitted and indisputable" facts show that grant of a writ will be in vain as pointed out by Chinnappa Reddy, J."

66. In ***Aligarh Muslim University and Ors. v. Mansoor Ali Khan (2000) 7 SCC 529***, the aforesaid authorities were relied upon, and the answer given was that there is no absolute rule, and prejudice must be shown depending on the facts of each case, as follows:

> *"24. The principle that in addition to breach of natural justice, prejudice must also be proved has been developed in several cases. In K.L. Tripathi v. State Bank of India [(1984) 1 SCC 43] Sabyasachi Mukharji, J. (as he then was) also laid down the principle that not mere violation of natural justice but de facto prejudice (other than non-issue of notice) had to be proved. It was observed, quoting Wade's Administrative Law (5th Edn., pp. 472-75), as follows: (SCC p. 58, para 31)*
>
> *"[I]t is not possible to lay down rigid rules as to when the principles of natural justice are to apply, nor as to their scope and extent. ... There must also have been some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the facts and circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter to be dealt with, and so forth."*
>
> *Since then, this Court has consistently applied the principle of prejudice in several cases. The above ruling and various other rulings taking the same view have been exhaustively referred to in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364]. In that case, the principle of "prejudice" has been further elaborated. The same principle has been reiterated again in Rajendra Singh v. State of M.P. [(1996) 5 SCC 460]*
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> *25. The "useless formality" theory, it must be noted, is an exception. Apart from the class of cases of "admitted or indisputable facts leading only to one conclusion" referred to above, there has been considerable debate on the application of that theory in other cases. The divergent views expressed in regard to this theory have been elaborately considered by this Court in M.C. Mehta referred to above. This Court surveyed the views expressed in various judgments in England by Lord Reid,*

Lord Wilberforce, Lord Woolf, Lord Bingham, Megarry, J. and Straughton, L.J. etc. in various cases and also views expressed by leading writers like Profs. Garner, Craig, de Smith, Wade, D.H. Clark etc. Some of them have said that orders passed in violation must always be quashed for otherwise the court will be prejudging the issue. Some others have said that there is no such absolute rule and prejudice must be shown. Yet, some others have applied via media rules. We do not think it necessary in this case to go deeper into these issues. In the ultimate analysis, it may depend on the facts of a particular case."

67. In *Union of India and Ors. v. Alok Kumar (2010) 5 SCC 349*, this Court, after eschewing a hyper-technical approach, held that prejudice must not merely be the apprehension of a litigant, but should be a definite inference of the likelihood of prejudice flowing from the refusal to follow natural justice, as follows:

"83. Earlier, in some of the cases, this Court had taken the view that breach of principles of natural justice was in itself a prejudice and no other "de facto" prejudice needs to be proved. In regard to statutory rules, the prominent view was that the violation of mandatory statutory rules would tantamount to prejudice but where the rule is merely directory the element of de facto prejudice needs to be pleaded and shown. With the development of law, rigidity in these rules is somewhat relaxed. The instance of de facto prejudice has been accepted as an essential feature where there is violation of the non-mandatory rules or violation of natural justice as it is understood in its common parlance. Taking an instance, in a departmental enquiry where the department relies upon a large number of documents majority of which are furnished and an opportunity is granted to the delinquent officer to defend himself except that some copies of formal documents had not been furnished to the delinquent. In that event the onus is upon the employee to show that non-furnishing of these formal documents have resulted in de facto prejudice and he has been put to a disadvantage as a result thereof.

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87. In ECIL v. B. Karunakar [(1993) 4 SCC 727] this Court noticed the existing law and said that the theory of reasonable opportunity

and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are neither incantations to be invoked nor rites to be performed on all and sundry occasions. Whether, in fact, prejudice has been caused to the employee or not on account of denial of report to him, has to be considered on the facts and circumstances of each case. The Court has clarified even the stage to which the departmental proceedings ought to be reverted in the event the order of punishment is set aside for these reasons.

88. It will be useful to refer to the judgment of this Court in Haryana Financial Corpn. v. Kailash Chandra Ahuja [(2008) 9 SCC 31] at pp. 38-39 where the Court held as under: (SCC para 21)

"21. From the ratio laid down in B. Karunakar it is explicitly clear that the doctrine of natural justice requires supply of a copy of the enquiry officer's report to the delinquent if such enquiry officer is other than the disciplinary authority. It is also clear that non-supply of report of the enquiry officer is in breach of natural justice. But it is equally clear that failure to supply a report of the enquiry officer to the delinquent employee would not ipso facto result in the proceedings being declared null and void and the order of punishment non est and ineffective. It is for the delinquent employee to plead and prove that non-supply of such report had caused prejudice and resulted in miscarriage of justice. If he is unable to satisfy the court on that point, the order of punishment cannot automatically be set aside."

89. The well-established canons controlling the field of bias in service jurisprudence can reasonably be extended to the element of prejudice as well in such matters. Prejudice de facto should not be based on a mere apprehension or even on a reasonable suspicion. It is important that the element of prejudice should exist as a matter of fact or there should be such definite inference of likelihood of prejudice flowing from such default which relates to statutory violations. It will not be permissible to set aside the departmental enquiries in any of these classes merely on the basis of apprehended prejudice."

68. Under the broad rubric of the Court not passing futile orders as the case is based on "admitted" facts, being admitted by reason of estoppel,

acquiescence, non-challenge or non-denial, the following judgments of this Court are all illustrations of a breach of the audi alteram partem rule being established on the facts of the case, but with no prejudice caused to the person alleging breach of natural justice, as the case was one on admitted facts:

(i) Punjab and Sind Bank and Ors. v. Sakattar Singh (2001) 1 SCC 214 (see paragraphs 1, 4 and 5);

(ii) Karnataka SRTC and Anr. v. S.G. Kotturappa and Anr. (2005) 3 SCC 409 (see paragraph 24);

(iii) Viveka Nand Sethi v. Chairman, J&K Bank Ltd. and Ors. (2005) 5 SCC 337 (see paragraphs 21, 22 and 26);

(iv) Mohd. Sartaj and Anr. v. State of U.P. and Ors. (2006) 2 SCC 315 (see paragraph 18);

(v) Punjab National Bank and Ors. v. Manjeet Singh and Anr. (2006) 8 SCC 647 (see paragraphs 17 and 19);

(vi) Ashok Kumar Sonkar v. Union of India and Ors. (2007) 4 SCC 54 (see paragraphs 26 to 32);

(vii) State of Manipur and Ors. v. Y. Token Singh and Ors. (2007) 5 SCC 65 (see paragraphs 21 and 22); (viii) Secretary, A.P. Social Welfare Residential Educational Institutions v. Pindiga Sridhar and Ors. (2007) 13 SCC 352 (see paragraph 7)

(viii) Peethani Suryanarayana and Anr. v. Repaka Venkata Ramana Kishore and Ors. (2009) 11 SCC 308 (see paragraph 18);

(ix) Municipal Committee, Hoshiapur v. Punjab State Electricity Board and Ors. (2010) 13 SCC 216 (see paragraphs 31 to 36, and paragraphs 44 and 45);

(x) Union of India and Anr. v. Raghuwar Pal Singh (2018) 15 SCC 463 (see paragraph 20).

69. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The "prejudice" exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.

70. In view of the above, we are of the view that local administrative authorities had conducted the public consultations by the available means and the contention as raised by the applicant that there are no public consultation has no relevance. Issue is resolved accordingly.

O. CONCLUSIONS

71. In view of the above observation and discussion and the consideration by the expert body, we are of the view that proper and sufficient technical studies to the satisfaction of the EAC was made and after that it was recommended to the MoEF&CC. The validity and sufficiency of the same have not been questioned by the MoEF&CC or for that matter anybody except the appellant and that too in vacuum without any basis. The EAC Members are expert in their domain field. They appraised the proposal before the EAC, through scrutiny and detailed deliberations are done by the Members. Therefore, the deliberations taken place in the EAC meeting are always of technical nature. The objections and clarification of the Project Proponent is fully complied on the various issues raised by the EAC Members and the proposal was recommended for grant of EC. The preposition that EAC findings cannot be questioned by anybody have found place in the following case laws :

A. Rajeev Suri v. Delhi Development Authority [2021 SCC OnLine SC 7]

*"494. **The minutes of the two meetings of EAC are self-explanatory and reveal due application of mind, in light of the principles relating to application of mind enunciated above. We do not wish to repeat the same to avoid prolixity. EAC is an expert body and it is amply clear that it has been made aware of all relevant information relating to the project and it has applied its mind to the proposal. Even on settled principles of judicial review, it is clear that relevant material has been considered by the committee and no reliance has been pointed out on any irrelevant material. The specific recommendations given by the committee do indicate that the committee was aware of the need for precautionary measures in environmental matters and accordingly, it suggested requirement of further permissions on certain counts.***

495. ***Once an expert committee has duly applied its mind to an application for EC, any challenge to its decision has to be based on concrete material which reveals total absence of mind. Absent that material, due deference must be shown to the decisions of experts. The facts of the case do not reveal any deliberate concealment of fact/information from the EAC or supply of any misinformation....***

515. *We, therefore, upon a thorough examination,* ***decline to interfere in the grant of EC.*** *The expertise developed by the EAC cannot be undermined in a light manner and as noted above, due deference must be accorded to expert agencies when their 384 decisions do not attract the taint of legal unjustness".*

B. ***N.D. Jayal & Anr. vs. Union of India [2004 (9) SCC 362]: A 3-Judge Bench of the Hon'ble Supreme Court emphasized the exercise of judicial restraint in matters involving technical expertise.***

20. ***This Court cannot sit in judgment over the cutting edge of scientific analysis relating to the safety of any project****. Experts in science may themselves differ in their opinions while taking decisions on matters related to safety and allied aspects. The opposing viewpoints of the experts will also have to be given due consideration after full application of mind.* ***When the Government or the concerned authorities after due consideration of all viewpoints and full application of mind took a decision, then it is not appropriate for the Court to interfere. Such matters must be left to the mature wisdom of the Government or the implementing agency. It is their forte. In such cases, if the situation demands, the Courts should take only a detached decision based on the pattern of the well settled principles of administrative law. If any such decision is based on irrelevant consideration or non consideration of material or is thoroughly arbitrary, then the Court will get in the way. Here the only point to consider is whether the decision making agency took a well informed decision or not. If the answer is yes then there is no need to interfere. The consideration in such cases is in the process of decision and not in its merits.***

21. In this context, reliance is sought to be placed on the decision of this Court in A.P. Pollution Control Board v. Prof. M.V. Nayudu (Retd.) and Ors. , 1999 (2) SCC 718. ***In that decision, this Court viewed that in scientific matters of complex nature resulting in uncertainty, reference has to be made to a specialised technical/expert body and not merely decide the matter on well known principles of administrative law of court not reexamining the matter if all relevant considerations have been taken note of. In the present case when once a decision had been given by this Court on safety aspects on an earlier occasion and thereafter the matter was again examined by the Government through different agencies and had taken a decision as to the necessity of further test by way of abundant caution should be relevant or not, we do not think, we can sit in judgment over such decision, particularly when there is no difference of opinion among the Experts as to the safety of the dam. .....***

C. ***Sam Built Well Private Limited vs Deepak Builders [2018 (2) SCC 176]:*** *This judgement was rendered by the Hon'ble Supreme Court in the context of judicial review of tenders. However, several observations were made qua exercising judicial restraint in matters involving technical expertise.*

12. We have already noticed that three expert committees have scrutinized Respondent No.1s tender and found Respondent No.1 to be ineligible. The impugned judgment of the Division Bench of the High Court expressly states that no malafides are involved in the present case. Equally, while setting aside the judgment of the learned Single Judge, the Division Bench does not state that the three expert committees have arrived at a perverse conclusion. To merely set aside the judgment of the learned Single Judge and then jump to the conclusion that Respondent No.1s tender was clearly eligible, would be directly contrary to the judgments aforestated. ***Not having found malafides or perversity in the technical expert reports, the principle of judicial restraint kicks in, and any appreciation by the Court itself of technical evaluation, best left to technical experts, would be outside its ken. As a result, we find that the learned Single Judge was correct in his reliance on the three expert committee reports. The Division Bench, in setting aside the aforesaid judgment, has clearly gone outside the***

bounds of judicial review. *We, therefore, set aside the judgment of the Division Bench and restore that of the learned Single Judge.*

D. ***Bombay Environmental Action Group vs State of Maharashtra [1990 SCC OnLine Bom 357]:*** *The Hon'ble High Court of Bombay made several observations discouraging judicial interference in technical matters pertaining to the environment.*

16. ***The, petitioners, as public spirited organisations and citizens****, have, through their respective Counsel, done their duty by invoking this Courts writ jurisdiction and placing before us all such facts and circumstances as considered best by them. We in our turn, have done our duty by carefully examining all the facts and circumstances in the context of the rival contentions advanced before us on either side.* ***In the course of this elaborate exercise and at every stage of the judicial process, we have kept asking ourselves the question -- Have the authorities shown such lack of awareness or have they been so oblivious of the needs of environment as to warrant Courts interference? We do not think so. On the contrary,*** *considerable though deliberation, consultation and application of mind by all concerned authorities and experts has gone into the decision making process. We find on the part of the authorities, and experts all the* ***seriousness while considering and deciding upon the varied factors and circumstances including environment in relation to this project. The indepth analysis, the*** *conditions imposed and the precautions taken inspire Courts confidence and, if, at the end of it all, the Court finds that a very conscious decision has been taken in the light of all possible pros and cons, it would then not interfere. The decision of the authorities cannot be said to* ***be arbitrary or capricious or one not in good faith or actuated by improper motive or extraneous considerations.***

17. Environmental issues are relevant and deserve serious *consideration. But the needs of the environment require to be balanced with the needs of the community at large and the needs of a developing country. If one finds, as in this case, that all possible environmental safe-guards have been taken, the check and control by way of judicial review* ***should then come to an end. Once an elaborate and extensive exercise by all concerned including the***

environmentalists, the State and the Central authorities and expert-bodies is undertaken and effected and its end result judicially considered and reviewed, the matter thereafter should in all fairness stand concluded. Endless arguments, endless reviews and endless litigation in a matter such as this, can carry one to no end and may as well turn counterproductive. While public interest litigation is a welcome development, there are nevertheless limits beyond which it may as well cease to be in public interest any further.

72. In view of the above facts, we find that the matter was referred to the Expert Committee i.e., Central Mine Planning and Design Institute Limited (CMPDIL), which is a subsidiary of Coal India Ltd, which is a Central Public Sector Undertaking under Ministry of Coal, Government of India, accredited by QCI and the agency is registered consultant to World Bank, Asian Development Bank, African Development Bank and other international agencies, which has been disclosed in chapter 12th of the report and the expert body considered the projected description, geology, infrastructure, power supply arrangement, Core zone, existing environmental scenario, ambient air quality, water quality scenario, noise level, flora and fauna and impact assessment on socio economic and mitigation measures and after analysis submitted the report which was placed before the EAC and was discussed and decided according to the rules.

73. There was a due public consultation with intimation to all concerned and we see no irregularity or illegality in the order impugned, thus, the Appeal & I.As are devoid of any merit and deserve to be dismissed and accordingly, **dismissed**.

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

09th March, 2022
Appeal No. 06/2020(CZ)
PU, PN & K

Annexure R- 29.

Item No. 04 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(By Hybrid Mode)

Original Application No. 16/2014
(M.A. No. 63/2022)

Shri Hazi Ariff Applicant

Versus

State of U.P. & Ors. Respondent(s)

Date of hearing: 10.02.2023

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

Applicant: Mr. R. Venkataraman, Advocate

Mr. Raj Panjwani, Senior Advocate (Amicus Curiae) with Ms. Esha Dutta, Advocate

Respondent: Mr. D.N. Goburdhun, Senior Advocate with Mr. Aakash Kamra, Advocate for NCRPB
Mr. Daleep Dhyani, Advocate for UPPCB
Mr. Sandeep Singh, Advocate for the State of UP
Mr. Tanmay Arora, Advocate for M/s Tata Steel Limited

ORDER

1. The issue for consideration is legality of constructions in the bed and within the buffer zone (12 meters from the edge of the drain[1]) of Sahibabad Drain No. 1 in Ghaziabad by private respondents herein and failure of the Ghaziabad Nagar Nigam to prevent discharge of untreated sewage and waste in the said drain. Infact, the matter stands disposed of vide order dated 13.5.2022 except for limited issue for which further consideration is required today. We may give brief background of the matter.

[1] In terms of Functional Plan on Drainage for National Capital Region

2. At the outset we may mention that the matter is to be examined in the light of statutory mandate under section 24(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974 (Water Act) and judgments of Hon'ble Supreme Court inter alia in MC Mehta vs. Kamal Nath, (1997) 1 SCC 388 laying down that flow of water could not be obstructed by permitting any commercial construction by the State and the State has to act as trustee for protecting environment, Vellore Citizens Forum (1996) 5 SCC 647 to the effect that sustainable development is part of Indian common law, *Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors.* (2019) 18 SCC 494 (para 44,45 and 52) to the effect that constructions could be prohibited in buffer zones of drains in view of sections 15 and 33 of the NGT Act and requirements for protection of environment.

3. As the record shows, the matter was earlier considered inter alia by orders dated 7.10.2016 and 26.2.2020. The Hon'ble Supreme Court vide order dated 22.10.2021 set aside the said orders and remanded the matter for fresh consideration, giving further opportunity to the alleged encroachers/violators.

4. Accordingly, the Tribunal took up the matter for consideration in terms of order of Hon'ble Supreme Court dated 22.10.2021 and disposed of the same vide order dated 13.5.2022.

5. As order dated 13.5.2022 would show, the Tribunal considered the report dated 12.4.2014 by the Committee constituted by the Tribunal. It also referred to earlier order dated 7.10.2016 to the effect that there was encroachment of the buffer zone of the drain by various establishments, with the permission of Nagar Nigam which permission was against section 24(1)(b) of the Water Act prohibiting obstruction of flow of water and thus the constructions were liable to be removed. The Tribunal considered the

submissions that there was no illegality in covering the drain and raising constructions in the buffer zone and rejected the said objections. It was held that the buffer zone of the drain was required to be left free. Reference was also made to the provision incorporated in the plan prepared by the National Capital Region (NCR) Planning Board under the NCR Planning Board Act, 1985. Reference was made to observations of the Hon'ble Supreme Court in *Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors.* (2019) 18 SCC 494 that restrictions could be placed against constructions in buffer zone of a drain in the interest of environment even beyond a State statute in view of entry 13 of List I of the Constitution and sections 15 and 33 of the NGT Act. The Tribunal held that public trust doctrine required the State (including the Nagar Nigam) act as a trustee and also to follow the mandate of section 24 of the Water Act to prevent obstruction of flow of water. Reliance was also placed on judgment of the Hon'ble Supreme Court in *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu* (1999) 6 SCC 464 (Paras 45 to 50). The Tribunal also referred to recommendations of the Study Group of the NCR Planning Board which defined the buffer zone of the drains in NCR for efficient drainage system. The Expert Committee made specific recommendations against covering of drains and leaving of buffer zone around the water bodies and drains. Inspite of this finding, the Tribunal taking a pragmatic view, instead of straightaway directing demolition of illegal constructions, obstructing flow of the drain and occupying its buffer zone, directed exploring of a viable alternative. The Tribunal constituted a joint Committee for the purpose. Some extracts from the order dated 13.05.2022 are reproduced below for ready reference:

> ***"Finding & directions***
>
> *22. From the above narrative, it is clear that part of the drain has been covered and constructions raised within the buffer zone from the edge of the drain. This obstructs flow and maintenance of the drain against statutory mandate of section 24 of the Water Act as*

well as plan of the NCR Board. Further, the drain is polluted. Some of the Respondents have claimed permission for such covering while many coverings/constructions are without such permission. The objections do not in any manner show how such constructions/covering of drain is legally sustainable in view of Water Act, NCR Act and other environmental consideration which cannot be overridden merely on the basis of any permission of the Nagar Nigam or property rights of such violators. There is no proposal for remedial action. Recommendations of the fact finding/expert Committees have thus to be accepted.

23. We find that covering of a drain obstructs flow of the river and is not environmentally permissible with or without permission of a Nagar Nigam. Not only drain, but reasonable buffer area from its edge has to be left free as held in Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors. (2019) 18 SCC 494 (Para 21). Preferably such buffer zone should be covered by dense forest. Section 24(1)(b) of the Water Act prohibits any obstruction of the flow of water of a stream which may add to pollution. 'Stream' is defined under Section 2(j) to include a water course, whether flowing or dry. It is, thus, clear that storm water drain falls in the definition of 'stream', whether man made or natural. Covering of the drain and constructions affect the flow and drainage. In Mantri Techzone, supra, the Hon'ble Supreme Court upheld the directions of this Tribunal to maintain buffer zone on all drains - primary, secondary and tertiary. Some of the observations therein are:

> *"xxx .....xxx.....xxx*
> *21. It is evident from the above orders that the Tribunal had granted opportunity to the parties to address it "limited question", as aforementioned. The Tribunal after hearing the parties passed an order dated 04.05.2016 as under:*
>
> ***" General Conditions or directions:***
>
> *1. In view of our discussion in the main Judgment, we are of the considered view that the fixation of distance from water bodies (lakes and Rajkalewas) suffers from the inbuilt contradiction, legal infirmity and is without any scientific justification. The RMP - 2015 provides 50m from middle of the Rajkalewas as buffer zone in the case of primary Rajkalewas, 25m in the case of secondary Rajkulewas and 15m in the tertiary Rajkulewas in contradiction to the 30m in the case of lake which is certainly much bigger water body and its utility as a water body/wetland is well known certainly part of wet land. Thus, we direct that the distance in the case of Respondents Nos. 9 and 10 from Rajkulewas, Waterbodies and wetlands shall be maintained as below:-*
>
> *(i) In the case of Lakes, 75m from the periphery of water body to be maintained as green belt and buffer zone for all the existing water bodies i.e. lakes/wetlands.*
>
> *(ii) 50m from the edge of the primary Rajkulewas.*
>
> *(iii) 35m from the edges in the case of secondary Rajkulewas*

(iv) 25m from the edges in the case of tertiary Rajkulewas

This buffer/green zone would be treated as no construction zone for all intent and purposes. This is absolutely essential for the purposes of sustainable development particularly keeping in mind the ecology and environment of the areas in question.

All the offending constructions raised by Respondents Nos. 9 and 10 of any kind including boundary wall shall be demolished which falls within such areas. Wherever necessary dredging operations are required, the same should be carried out to restore the original capacity of the water spread area and/or wetlands. Not only the existing construction would be removed but also none of these Respondents - Project Proponent would be permitted to raise any construction in this zone.

All authorities particularly Lake development Authority shall carry out this operation in respect of all the water bodies/lakes of Bangalore.

xxx .....xxx.....xxx

24. It was also argued that buffer zone laid down by the NGT is substantially higher as compared to buffer zone which is required to be maintained as per the Revised Master Plan, 2015 issued on 22.06.2007. This is contrary to the Karnataka Town and Country Planning Act, 1961 (for short 'the Planning Act').

xxx
.....xxx.....xxx

47. Section 33 of the Act provides an overriding effect to the provisions of the Act over anything inconsistent contained in any other law or in any instrument having effect by virtue of law other than this Act. This gives the Tribunal overriding powers over anything inconsistent contained in the KIAD Act, Planning Act, Karnataka Municipal Corporations Act, 1976 ("KMC Act"); and the Revised Master Plan of Bengaluru, 2015 ("RMP"). A Central legislation enacted under Entry 13 of List I Schedule VII of the Constitution of India will have the overriding effect over State legislations. The corollary is that the Tribunal while providing for restoration of environment in an area, can specify buffer zones around specific lakes & water bodies in contradiction with zoning regulations under these statutes or the RMP."

24. Mere fact that the permission has been granted by the GNN cannot be of any consequence to remedy such illegality. It is well settled that protecting and maintaining drains is covered by the doctrine of public trust under which certain environmental assets vest in the people. The State has to act as a trustee. Storm water drain has important ecological functions in augmenting water supply. Discharge of untreated sewage in such drains is prohibited under the Water Act. So is obstructing its flow. The Nagar Nigam is thus not only under an obligation to prevent discharge of any pollutant into

the drains (whether natural or manmade) but also prevent impeding its flow. In view of section 24 of the Water Act, it is not possible to accept that the Nagar Nigam can, in exercise of its contract making power or authority responsible for maintaining the drain, allow either impeding of flow or polluting of the drain. The Nagar Nigam is to act as a trustee in respect of the drain. The powers of the Nagar Nigam are not unlimited so as to either by itself or through anyone else violate the mandate of the Water Act. Reference may inter-alia be made to M.I. Builders (P) Ltd. v. Radhey Shyam Sahu (1999) 6 SCC 464 (Paras 45 to 50). Relevant observations are:

> *"xxx .....xxx.....xxx*
>
> *50. ..... The Mahapalika is the trustee for the proper management of the park. When the true nature of the park, as it existed, is destroyed it would be violative of the doctrine of public trust as expounded by this Court in Span Resort case[2]. Public trust doctrine is part of Indian law. In that case the respondent who had constructed a motel located at the bank of River Beas interfered with the natural flow of the river. This Court said (at SCC p. 413, para 35) that the issue presented in that case illustrated "the classic struggle between those members of the public who would preserve our rivers, forests, parks and open lands in their pristine purity and those charged with administrative responsivities who, under the pressures of the changing needs of an increasingly complex society, find it necessary to encroach to some extent upon open lands heretofore considered in violate to change".*
>
> *51. In the treatise Environmental Law and Policy: Nature, Law, and Society by Plater Abrams Goldfarb (American Casebook Series, 1992) under the Chapter on Fundamental Environmental Rights, in Section 1 [The Modern Rediscovery of the Public Trust Doctrine) it has been noticed that "long ago there developed in the law of the Roman Empire a legal theory known as the 'doctrine of the public trust' ". In America public trust doctrine was applied to public properties, such as shore lands and parks. As to how that doctrine works it was stated:*
> *"The scattered evidence, taken together, suggests that the idea of a public trusteeship rests upon three related principles. First, that certain interests 'like the air and the sea' have such importance to the citizenry as a whole that it would be unwise to make them the subject of private ownership. Second, that they partake so much of the bounty of nature, rather than of individual enterprise, that they should be made freely available to the entire citizenry without regard to economic status. And, finally, that it is the principal purpose of a Government to promote the interests of the general public rather than to redistribute public goods from broad public uses to restricted private benefit...."*
>
> *With reference to a decision in Illinois Central Railroad Co. v. Illinois[3] it was stated that*
>
> *"the Court articulated in that case the principle that has become the central substantive thought in public mist litigation. When a*

[2] M.C. Mehta v. Kamal nath, (1997) 1 SCC 388
[3] 146 US 387: 36 Led 1018 (1892)

State holds a resource which is available for the free use of the general public, a court will look with considerable scepticism upon any governmental conduct which is calculated either to reallocate the resource to more restricted uses or to subject public uses to the self-interest of private parties".

This public trust doctrine in our country, it would appear, has grown from Article 21 of the Constitution."

25. Accordingly, on admitted facts and even after considering all objections of the PP, we conclude that constructions on the drain and its buffer zone either with or without permission of the Nagar Nigam are illegal. Buffer zone has to be fixed either by the authorities or may be determined by the Tribunal. In the present case, buffer zone stands defined by the NCR Planning Board, Ministry of Urban Development, Govt. of India, which applies to the present case.

Functional Plan on Drainage for National Capital Region

26. NCR Planning Board, Ministry of Urban Development, Govt. of India in its meeting held on 28.04.2016 approved Functional Plan on Drainage for National Capital Region (NCR)[4]. The issues considered in the said plan include protection of natural drainage system and allied issues. The plan has been prepared in the light of recommendations of a study group under the chairmanship of Engineer-in-Chief, Department of Irrigation, Govt. of Haryana with the Chief Regional Planner, NCRPB as the co-chairman. Other members of the Study Group includes Director, Central Water Commission (CWC), Govt. of India; Chief Engineers of Deptt. of Irrigation of the NCR participating States, U.P. Jal Nigam, Delhi Jal Board; Chief Town Planners/ Chief Co-ordinator Planners of the NCR participating States, etc. The plan has examined various aspects having impact on the drainage system of an area, such as geology, geomorphology, physical features, hydro-meteorology as well as the existing drainage system of various subregions, pollution, etc., besides studying various norms & standards e.g. design criteria of drainage system in the participating States, CPHEEO norms, recommendations by National Disaster Management Authority (NDMA) on Drainage, etc. In order to ensure an efficient drainage system in NCR, the Functional Plan has given important recommendations on protection of natural drainage system; promotion of recreational use along drainage channels; preparation of Master Plan of inter-state regional drainage and for individual cities/towns; segregation of sewage and drainage, etc. Some of the discussion in the report is quoted below:

"xxx .....xxx.....xxx

8.2.4 Encroachment on Natural Drainage Channels in Urban Areas

Natural streams and watercourses have formed over thousands of years due to the forces of flowing water in the respective watersheds. Habitations started growing into towns and cities alongside rivers and watercourses. As a result of this, the flow of water has increased in proportion to the urbanization of the

[4] http://ncrpb.nic.in/pdf_files/FunctionalPlanondriangeforNCR.pdf

watersheds. Ideally, the natural drains should have been widened (similar to road widening for increased traffic) to accommodate the higher flows of storm water. But on the contrary, there have been large scale encroachments on the natural drains and the river flood plains. Consequently the capacity of the natural drains has decreased, resulting in flooding.

Generally the drains and linear patch of land on either side of the drain are neglected due to foul smell and filthy look due to drain. Because of this reason the land value along drain is lower compared to other lands in the city. Local authorities also neglect the nallah land and its surroundings because this land does not provide any source of income to them. The negligence by local authorities provides an opportunity for the encroachers to carry out construction activities on the lands along the nallahs. The encroachment also reduces the effective width of the drain, which further aggravates the problem in monsoon.

xxx .....xxx.....xxx

iv) Covering of Drains/Construction over the Drainage Channels

A new phenomenon has been observed that in urban areas drains and natural nallahs are covered for urban activities use mainly for transportation and commercial activities due to scarcity of land in the cities. The covering of drains poses difficulty in cleaning and leads to reduction in the carrying capacity of the drains."

xxx .....xxx.....xxx

vi) Silting of Drains

During the rain the velocity of water is high. This high speed flowing water washes the earth and carries with it soil, leaves, wood logs, dead bodies etc. The soil carrying capacity of water decreases with the reduction in velocity of water. After reduction in velocity of water, floodwater leaves behind this material in the drain. This reduces the carrying capacity of Drain. And to carry the same quantity of water wider drain is required. Otherwise the water spread (flooding) takes place. To maintain the same carrying capacity in a limited width, the drain need to be cleaned periodically.

xxx .....xxx.....xxx

(i) Mixing of Sewage and Drainage

Storm water drainage is meant to carry storm water (rain water) or any other clean surface water. It is fundamentally neither suitable nor designed for carrying sewage or industrial wastewater or even septic tank effluent. Even the effluent from the sewage treatment plant cannot be discharged into drain unless it meets the norms set by the Bureau of Indian Standards (BIS) code and the Central Pollution Control Board. In urban areas

it is desirable to have separate system for carrying the sewage and storm water. In accordance with this principle in cities, the drainage and sewerage systems are provided separately. The problem arises due to blockage in sewerage system resulting the back flow in houses and in nearby areas. In order to avoid back flow and immediate relief is given by puncturing the sewerage line and diverting the sewage to nearby drains. Thus in urban areas the drains also serves as a substitute to sewerage system, for which the drains are not designed. The raw sewage mixed with storm water directly flow to the major drains and ultimately to the rivers cause serious water pollution in rivers which are the major source of drinking water of supply effects the aquatic life. There is a need to plan and construct separate sewerage and drainage system and necessary measures may be taken so that sewage are not punctured during floods and drained into the drains.

xxx .....xxx.....xxx

"8.3.4 Buffer Along/Around Water Bodies

Expert Committee constituted by Ministry of Home Affairs, GOI had proposed amendments to Rules and Bylaws, relating to Layout approvals and Building Permissions, to address disaster management issues. The following recommendations of the Expert Committee relating to restrictions of building activity in the vicinity of areas may be adopted which will help in conservation of water bodies and prevent them from pollution:

The water bodies and watercourses be maintained as recreational/green buffer zone and no building activity other than recreational use be carried out within;

i) 100 m from the river edge outside Municipal Corporation / Municipal limits and 50 m within Municipal Corporation / Municipal limits. No permanent construction be permitted within the buffer zone.

ii) 50 m. from the boundary of lakes of surface area for 10 ha. and above,

iii) 30 m. from the boundary of lakes of an area of less than 10 ha/ponds/tank bed lands

iv) 12 m. from boundary of major canal, streams nallahs, canals, etc."

xxx .....xxx.....xxx

8.3.10 Regulation for Covering of Drain

In urban areas drains run along the roads and public is allowed to cover drains in front of their entrances for access from roads. It has been observed that the drains are covered along the property boundary especially in the commercial property. This results into covering of drains for a longer distance and cleaning becomes difficult which ultimately leads to blockage of drain and flooding on roads. A standard design for the drain for removable cover at regular interval should be incorporated in building byelaws so that the above problem can be avoided. It should be

checked by the agency while granting building permission or at the time of providing occupancy certificate. A provision for recovering the demolition costs from the property owners, if any, should be integral part of Bye laws.

It is recommended that the practice of covering the drains for construction of roads should be stopped. Even the bridge/elevated road running over the drain along the alignment of the drain should also be discouraged as pillars obstruct the flow and movement of cleaning machines/ equipment's."

27. Even though the Hon'ble Supreme Court in Mantri Techzone, supra, has approved larger buffer zones ranging from 25 meters to 50 meters from the edge of the drain (depending upon size of the drain), the buffer zone laid down by the NCR Planning Board which is lesser area, must be followed in the NCR, which includes Ghaziabad. Thus, all constructions within the buffer zone of 12 meters from the edge of any drain have to be held illegal and liable to be removed. This will include constructions raised by the project proponents who have filed objections before this Tribunal. No further construction can be allowed in the buffer zone. Preferably, it should be covered by forest. There can be no estoppel against law and mere fact of construction having already been made can be no defence to need for protection of environment in the larger interest of the society.

28. However, in the peculiar facts and circumstances, we are not averse to exploring viable alternative such as laying of a proper sewer line, enabling pollution and obstruction free flow of the storm water drain. If any such plan is found viable and prepared with cost being recovered entirely or partly from the PPs or any other violators /beneficiaries within a period of one year, the demolition can be reconsidered, though not an ideal situation. Thus, while holding and directing demolition of illegal constructions, we leave it open to consider a viable alternative by a Joint Committee headed by the Member Secretary, NCR Planning Board, Ministry of Urban Development, GoI with nominee of Ministry of Jal Shakti (MoJS) not below the rank of Joint Secretary, Additional Chief Secretary, Urban Development, UP Commissioner, GNN, District Magistrate, Ghaziabad and UP PCB as members, with Additional Chief Secretary, Urban Development, UP being the nodal agency for coordination and compliance. Meeting of the Committee may be held within one month and its interim report prepared within two months thereafter. In case it is found that a sewer line can be duly constructed, enabling pollution and obstruction free flow of storm water drain, with or without contribution or such private parties, a report be filed within four months. The affected parties are free to represent to concerned authorities for such consideration offering the full or part of the cost involved. The Committee is free to meet online or otherwise and associate any other individual/ department/ expert.

29. In case option suggested is not found workable, all coverings of drain and constructions within buffer zone of the drain may be demolished after four months and drain with buffer zones maintained free of pollution and covering/encroachments. This will be the responsibility of the Commissioner, GNN, District Magistrate, Ghaziabad and SSP, Ghaziabad. Needless to say, that in case if an

alternative is found viable, the Tribunal may pass further order considering the report of the committee.

Directions

30. To sum-up, our directions are:

(i) All constructions/ encroachments in the bed and 12 meter buffer zone from the edge of Sahibabad Drain No. 1 in Ghaziabad and all its coverings are per se illegal and are liable to be demolished, irrespective of any permission by the Nagar Nigam. The drain is liable to be restored and allowed to flow without obstruction and pollution which will be the responsibility of the Nagar Nigam with oversight of higher authorities and regulators.

(ii) Demolition of above illegal constructions may be carried out unless viable and acceptable alternative to restore environment and Drain by a suitable sewer line enabling free flow and unpolluted storm water open drain is worked out upto 01.10.2022

(iii) In case of representation in terms of direction (ii), a Joint Committee headed by the Member Secretary, NCR Planning Board, Ministry of Urban Development, GoI, with nominee of Secretary, MoJS, GoI, Additional Chief Secretary, Urban Development, UP, Commissioner, Ghaziabad Nagar Nigam, District Magistrate, Ghaziabad, and UP PCB as members may consider the matter and give its report to the Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF on or before 15.09.2022 about a viable alternative for sewer line being laid and simultaneously storm water drain being allowed to flow unpolluted and uninterrupted. This may be with full or partial financial contribution of affected/ benefited parties, to be executed within the outer limit of one year from today.

(iv) If any such report is filed, the same may be simultaneously placed on the website of the UP PCB for being accessed by any of the affected parties.

(v) The report, if filed, be placed before the Tribunal on 28.09.2022 for consideration.

Subject to above, the application is disposed of.

A copy of this order be forwarded to NCR Planning Board, Ministry of Urban Development, GoI, MoJS, GoI, Additional Chief Secretary, Urban Development, UP, Commissioner, Ghaziabad Nagar Nigam, District Magistrate, Ghaziabad, SSP, Ghaziabad and UP PCB by e-mail for compliance."

6. It is in above background that the matter is to be further considered in the light of report submitted. However, before proceeding further, we may note that aggrieved by the order of this Tribunal dated 13.05.2022,

M/s Tata Steel Limited filed Civil Appeal No(s). 6811/2022, *M/s. Tata Steel Limited vs. Hazi Arif & Ors.* which was dismissed as withdrawn with liberty to file review application before the Tribunal vide order dated 28.09.2022 as follows:

> *"Learned Senior counsel for the appellant seeks leave to withdraw the Appeal with liberty to file Review before the National Green Tribunal.*
>
> *Consequently, the Appeal is dismissed as withdrawn with liberty as prayed."*

7. However, no review application has been filed in pursuance of the said order.

8. We now proceed to deal with report dated 28.11.2022 filed by the NCR Planning Board as a nodal agency of the joint Committee in terms of order dated 13.05.2022. It is stated that parallel sewer line is not feasible and instead the drain can be kept clean by installing cleaning chambers at intervals of 30 meters or after confluence of additional drains into the Sahibabad Drain whichever is earlier. However, with regard to illegal constructions, there is no recommendations in terms of order dated 13.5.2022 beyond saying that NCR regulation is of 2016 while constructions are of 2012. Operative part of the report is reproduced below:

> *"19(a) The Committee on 14.10.2022 has discussed the following directions of Hon'ble NGT:-*
>
> *i) All constructions/encroachments in the bed and 12 meter buffer zone from the edge of Sahibabad Drain No. 1 in Ghaziabad and all its coverings are per se illegal and are liable to be demolished, irrespective of any permission by the Nagar Nigam.*
>
> *(ii) Demolition of above illegal constructions may be carried out unless viable and acceptable alternative to restore environment and Drain by a suitable sewer line enabling free flow and unpolluted storm water open drain is worked out.*
>
> *19(b) Regarding viable and acceptable alternative for sewer line, extensive deliberations have been held by the Office of District Magistrate, Ghaziabad in the meeting held on 01.07.2022 and by the Committee as*

well. Technical inputs from concerned Agencies highlight that laying down of parallel Drain is not feasible due to lack of land along the drain in question and lack of 100% tapping by means of sewer in upstream region of the Sahibabad Drain. As no contradictory views of DM has been received on this technical inputs, the Committee felt that DM seems to be in broad agreement with stakeholders that parallel sewer line is not feasible. Committee accordingly agreed with views of DM Ghaziabad and stakeholders.

19(c) With regard to constructions/encroachments in the bed and 12 meter buffer zone, it was observed by the Committee that DM has conveyed that all permissions given by GNN are prior to 2012 and Functional Plan on Drainage was implemented from 2016. The same was confirmed in meeting on 14.10.2022 by representative of GNN and DM Ghaziabad as well.

20(a) Committee further deliberated the following provision of Functional Plan on drain which is quoted by the Hon'ble NGT as alternative parallel sewer line does not seen feasible:

> ***8.3.10 Regulation for Covering of Drain***
>
> *In urban areas drains run along the roads and public is allowed to cover drains in front of their entrances for access from roads. It has been observed that the drains are covered along the property boundary especially in the commercial property. This results into covering of drains for a longer distance and cleaning becomes difficult which ultimately leads to blockage of drain and flooding on roads. A standard design for the drain for removable cover at regular interval should be incorporated in building byelaws so that the above problem can be avoided. It should be checked by the agency while granting building permission or at the time of providing occupancy certificate. A provision for recovering the demolition costs from the property owners, if any, should be integral part of Bye laws.*
>
> *It is recommended that the practice of covering the drains for construction of roads should be stopped. Even the bridge/elevated road running over the drain along the alignment of the drain should also be discouraged as pillars obstruct the flow and movement of cleaning machines/ equipment's."*

20(b) In order to ensure smooth flow in Sahibabad Drain, Committee has deliberated upon the suggestions of local association received from the office of the District Magistrate, Ghaziabad. Committee is of the view that the cleaning chambers should be made at intervals of 30 mtr. or after confluence of additional drains into the Sahibabad Drain whichever is earlier. Also mechanised screens should be installed in these cleaning chambers and its efficacy should be monitored by the Ghaziabad Nagar Nigam. The size of these chambers should be decided after due consideration of size of the Drain and machines required for its cleaning. Financial burden for making these cleaning chambers and installations of mechanised screens should be borne by the concerned private parties in the said matter.

21. Committee recollected that ACS, Urban Development Government of UP had already nominated Ghaziabad officers as his representative in this Committee in first meeting and decided to send this to ACS, Urban Development, Government of UP for further necessary action as per the order of Hon'ble NGT and to file, status report in Hon'ble NGT thereafter accordingly since time has been requested by Committee from NGT for this matter. It was decided that status report be filed by Committee."

9. We have heard learned Counsel for the applicant and Shri Raj Panjwani, Senior Advocate who has assisted the Tribunal as amicus. We have also heard Mr. Tanmay Arora, Advocate appearing for one of the encroachers – M/s. Tata Steel Limited (earlier Bhushan Steel), learned Counsel for State PCB and also learned Counsel for NCR Planning Board.

10. From the above background, it is clear that there are two issues – stopping pollution of drain by discharge of sewage so that the drain carries only unpolluted storm water which is its function and not to allow encroachment of buffer zone of the drain to keep flow of the drain unobstructed and to use the buffer zone for plantations to prevent soil erosion and land degradation as per mandate of section 24 of the Water Act and section 15 of the NGT Act.

11. The Tribunal has already held vide order dated 13.05.2022 that all constructions in the bed and within the buffer zone (12 meters from the edge of the drain[5]) and all its covering are illegal are liable to be demolished so as to restore the drain and its buffer zone free of pollution and obstruction. Only alternative for demolition could be a viable and acceptable alternative to restore environment and enable free flow of unpolluted storm water open drain which has not been found viable. Storm water drain in question is not to carry sewer for which proper conveyance system terminating to sewage treatment plant is to be set up. In present

[5] In terms of Functional Plan on Drainage for National Capital Region

case, drain is also carrying sewer which is not permissible and only part of flow of waste water in the drain is being diverted to the Indirapuram Sewage Treatment Plant having capacity of 74 MLD. Thus, sanctity of Sahibabad drain as storm water drain is not being maintained before its confluence in Shahdara drain, Delhi. This needs to be remedied by laying the close conduit within the drain or by other suitable means. Since buffer zone of the drain has environmental functions, the same has to be left free for environmental purposes such as containing overflow, plantations etc on the pattern of floodplain zone of a river. Observations in the report about constructions being prior to report of NCR Planning Board are not of any consequence. Requirement of maintaining buffer zone does not flow from the said report but from section 24 of the Water Act and section 15 of the NGT Act, as already held by the Hon'ble Supreme Court inter alia in MC Mehta and *Mantri Techzone*, supra. Report merely clarifies the extent of buffer zone. Constructions are even covering drain or bed of the drain which is not permissible by any environmental norm/law and is to the detriment of environment. Merely providing cleaning chambers will neither enable preventing of pollution nor enable free flow of water or leave the buffer zones free. Rather on this pattern, there may be more encroachments and encourage all buffer zones to be occupied on the principle of parity which will not be conducive to the environment. Sustainable Development and Precautionary Principles are accepted norms of environment law in view of authoritative judgment of the Hon'ble Supreme Court in Vellore Citizens Forum, supra and have been later incorporated in section 20 of the NGT Act.

12. Thus, in absence of any other option, the directions of the Tribunal dated 13.05.2022 have to be carried out for removing illegal constructions falling in the buffer zone (12 meters from the edge of the drain) and

preventing pollution of the drain by stopping discharge of untreated sewage, maintaining drain as exclusively storm water. Instead, the intercepted and diverted sewage needs to be treated and treated water utilized for secondary purposes such as agriculture, horticulture, industrial, parks, gardens or any other such non-contact purposes.

13. The District Magistrate and SSP, Ghaziabad, Ministry of Jal Shakti, Govt. of U.P. and Ghaziabad Nagar Nigam may accordingly take action expeditiously and restore the drain free from pollution and encroachments within six months from today.

The proceedings will stand disposed of.

MA No. 63/2022 filed by the applicant will also stand disposed of.

A copy of this order be forwarded to Chief Secretary, UP, Additional Chief Secretary, Ministry of Jal Shakti, Govt. of U.P., Ghaziabad Nagar Nigam, District Magistrate, SSP and District Forest Officer, Ghaziabad by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 10, 2023
Original Application No. 16/2014
(M.A. No. 63/2022)
DV

Annexure R-30.

2025 INSC 347

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 5781-5782 OF 2022

THE AUROVILLE FOUNDATION ....APPELLANT

VERSUS

NAVROZ KERSASP MODY
& ORS. ....RESPONDENT(S)

J U D G M E N T

BELA M. TRIVEDI, J.

1. The present Appeals stem from the final judgment and order dated 28.04.2022 passed by the National Green Tribunal, Chennai (hereinafter referred to as the "Tribunal") in O.A. No. 239/2021, and from an interim order dated 27.07.2022 passed by the said Tribunal in the M.A. No.6/2022 in O.A No.239/2021. The directions given by the Tribunal in the impugned judgment dated 28.04.2022 read as under:-

Validity unknown
Digitally signed by RAVI ARORA
Date: 2025.03.17 17:10:25 IST
Reason:

I. "**125.** In the result, this Original Application is allowed in part and disposed of with the following directions: -

(i) The 1st Respondent is directed to prepare a proper township plan either in respect of 778 Ha which is in their possession now or in respect of 1963 Ha which was visualized by the MOTHER by identifying the locations where each zone will have to be located, where the roads will have to be laid showing the location of the ring roads with their width and further road, if any, to be constructed, the nature of industries and other activities which they are expected to establish in the township and if it is not going to be implemented as one phase, how many phases in which they are going to complete the project and then apply for Environmental Clearance (EC) as it will fall under Item 8 (b) of the EIA Notification, 2006 as amended from time to time. Till then they are directed not to proceed with further construction in the project area."

(ii) Considering it as an exceptional circumstances, even before obtaining Environmental Clearance (EC) for further activity, we are permitting the 1st Respondent to complete the crown road on the following conditions: -

a. The Joint Committee appointed by this Tribunal viz., (i) the District Collector who is the Chairman of the District Green Committee of the concerned district along with (ii) the Forest Officer not below the rank of Conservator of Forest, as deputed by the Principal Chief Conservator of Forests, (Head of Forests Force) and Chief Wildlife Warden, State of Tamil Nadu to inspect the area in question and ascertain whether by

reducing the width of the road at suitable places or by slight realignment (if any) required, so that the number of trees to be cut can be minimized so that the vision of the MOTHER of creating a green cover in that area can be protected.

b. The Joint Committee is also directed to ascertain as to whether there are any water bodies/streams exists in that area and if the road passes through the water body, then what is the manner in which the road will have to be constructed by elevation without affecting the water body/water flow or a bed level causeway with box type of vents will suffice. If such a recommendation is made, that also will have to be implemented, and the 1st Respondent is to undertake the construction as suggested by the committee.

c. The Joint Committee is directed to complete the process and submit the report to the 1st Respondent within a period of two months and on receipt of the same, the 1st Respondent is directed to carry out the crown road work, in the impugned area with tree cover, strictly in accordance with the recommendations made by the Joint Committee.

d. Till that exercise is completed, the 1st Respondent is directed not to cut any further trees from the property. The 1st Respondent is at liberty to undertake the crown road work in the remaining stretches where there are no trees. The 1st Respondent is also at liberty to take action against unauthorized occupations, if any, strictly in accordance with the law in force.

(iii) The 1st Respondent is also directed to plant trees in the ratio of 1: 10 for the number

of trees to be cut, and the species to be recommended by the Joint Committee may be considered for planting either on the side of the road or other area identified by the Joint Committee, in order to protect environment and also to maintain the green cover in that area.

(iv) Considering the circumstances, parties are directed to bear their respective costs in the application.

(v) The Registry is directed to communicate this order to the members of the Joint Committee appointed by this Tribunal, the Principal Chief Conservator of Forests (Head of Forests Force) and Chief Wildlife Warden, State of Tamil Nadu, the Ministry of Environment, Forests & Climate Change (MoEF&CC) and the Additional Chief Secretary to Government, Department of Environment, Forests & Climate Change for their information and compliance of directions."

II. The following further directions were given by the Tribunal by passing the interim order dated 27.07.2022 in MA No. 6/2022:

> **"7.** In the meantime, the Joint Committee appointed by this Tribunal vide Judgment dated 28.04.2022 is also directed to file the report regarding the nature of work done and observations made by them at the time of inspection."

2. This Court on 13.12.2023 passed the following interim order pending these Appeals.

> **"5.** Having regard to the said prayer which was sought by the Respondent No.1 (original applicant) and having regard to the final directions given by the Tribunal in the impugned order, we are of the prima facie opinion that the direction contained in Para 125(i) being outside the jurisdiction of the Tribunal, the same is required to be stayed till further orders, and is ordered accordingly."

3. Prelude on the History of Auroville:-

I. Before appreciating the issues involved, it would be apt to peep into the history of Auroville. In 1965, the "Mother" (Mirra Alfassa, a French lady), a spiritual collaborator of Sri Aurobindo (a Spiritual reformer, Philosopher and Educationist), envisioned to launch the project of Auroville, with an aim to establish an international universal township, where men and women of all countries are able to live in peace and harmony, above all creeds, all politics and all nationalities and to realise human unity. The project of Auroville was formerly inaugurated by the "Mother" in 28.02.1968. The Charter of Auroville given by the "Mother" was the following:

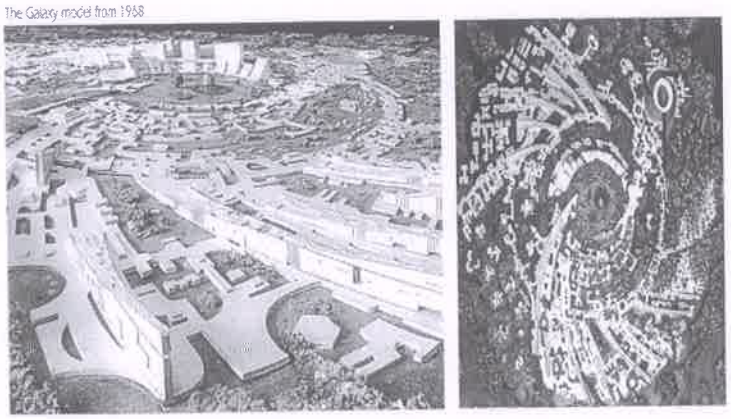
> **"1.** Auroville belongs to nobody in particular. Auroville belongs to humanity as a whole. But to live in Auroville one must be a willing servitor of the Divine Consciousness.

2. Auroville will be the place of an unending education, of constant progress and a youth that never ages.

3. Auroville wants to be the bridge between the past and the future. Taking advantage of all discoveries from without and from within, Auroville will boldly spring towards future realisations.

4. Auroville will be a site of material and spiritual researches for a living embodiment of an actual Human Unity."

II. The original Master Plan of the Auroville was conceptualized in Galaxy shape, and was planned to eventually accommodate 50,000 residents, a number which the "Mother" considered sufficient to allow the experiment in human unity to take on a meaningful and significant dimension. Picture of Galaxy Model Plan conceptualized in 1968 is shown below:



III. The project Auroville was legally started as the project of a charitable organization, "The Sri Aurobindo Society" in Pondicherry, which was created to diffuse Sri Aurobindo's thoughts. The development of Auroville in the initial few years showed good progress and it developed at a rapid pace. Number of Indians and foreigners settled down in Auroville and devoted themselves to various activities showing a remarkable harmony amongst the members of Auroville, which gave a promise to the Government of India of an early fulfilment of the ideals for which Auroville was established. It was also encouraged by UNESCO and other International Organizations of the world. However, after the "Mother" passed away in 1973, the situation changed, and number of complaints came to be received by the Government of India with regard to the mismanagement in the working of the Sri Aurobindo Society. Following the requests by majority of Auroville residents, the Government of India issued a Presidential Ordinance called the Auroville (Emergency Provisions) Ordinance, 1980, later replaced by the Auroville (Emergency Provisions) Act, 1980.

Finally, the Government of India created a unique status for Auroville by passing the Auroville Foundation Act, 1988 (hereinafter referred to as the "A.F.Act").

4. Constitution of Auroville Foundation and its Standing Orders-

I. The Government of India notified the Constitution of Auroville Foundation as a statutory body on 29.01.1991 under the A.F. Act, and at present it is under the realm of Ministry of Human Resource Development (Department of Higher Education) as the Central Government undertaking.

II. As transpiring from the record, the original Galaxy Plan envisioned by the "Mother" in 1968 was the plan with four zones in Auroville, with the centripetal force, being the "Matrimandir". The said Galaxy Plan was revised in 1972 as the First Master Plan called the "Town Plan". As the A.F. Act required statutory Master Plan as contemplated in Section 17(e) read with Section 19(2)(c) of the said A.F. Act, the Master Plan was approved by the Governing Board and the Residents' Assembly of the Appellant Foundation in 1999. The said 1999 Master Plan was further

approved by the competent authority- the Town and Country Planning Organisation (TCPO), Ministry of Urban Development, on 15.02.2001 under the Model Town and Country Planning Act. The said Master Plan was notified on 16.08.2010 and published in the Official Gazette on 28.08.2010.

III. In view of Section 11(3) of the A.F. Act, the Governing Board decided, that "Standing Orders" not inconsistent with the provisions of the A.F. Act and the Rules made thereunder, on the matters that the Governing Board may consider appropriate and necessary, shall be notified from time to time, by the Auroville Foundation. The said Resolution was notified in the Gazette of India, Part III dated 05.03.2011 by the Ministry of Human Resource Development (Department of Higher Education).

IV. Since the said approved Master Plan prescribed the "Town Development Council" as the body for implementing the Master Plan with the organizational structure as in Appendix V of the Master Plan, the Governing Board in terms of the provisions of the Master Plan, constituted the

Town Development Council for the purpose of implementation of the Master Plan, vide the Standing Order No. 6/2011 dated 01.05.2011, which was notified in the Government of India Gazette, Part III, dated 11.06.2011. The said Standing Order dated 01.05.2011 came to be replaced by the Standing Order No. 1/2019 dated 04.06.2019.

V. Again, the said Standing Order dated 04.06.2019 came to be replaced by the Standing Order No.1/2022 dated 01.06.2022, which was notified in the Gazette of India, Part III, on 15.07.2022. On 01.06.2022, the Auroville Foundation issued the Office Order for the re-constitution of the Auroville Town Development Council (ATDC). The Appellant-Foundation thereafter also issued a Corrigendum dated 07.12.2022, to the Standing Order No. 1/2022 dated 01.06.2022, in order to clarify and add the source of statutory power in the Preamble to the said original Standing Order dated 01.06.2022. The said Corrigendum was also published in the Gazette of India, Part III, on 10.12.2022.

5. Prefatory Facts:-

I. The Respondent Nos. 1 and 2 (the original Applicants) had filed an Application being O.A. No.239/2021 before the Tribunal, raising a grievance with regard to cutting of large number of trees by the Appellant-Auroville Foundation, alleging *inter alia* that the Master Plan for Auroville as envisaged by the 'Mother' was approved by the Governing Board of the Auroville Foundation in consultation with the Residents' Assembly, and it further led to preparation of the Auroville Universal Township Master Plan-Perspective 2025, which was approved by the Ministry of Human Resources Development in 2001. However, now the Appellant-Foundation was focusing on the manifestation of the roads mentioned in the Master Plan, e.g. the Crown Road, a road encircling the centre of the Township, and the outer ring road, and was intending to distract Darkali Forest by using huge machineries causing deterioration to the environment. According to the Respondents-original Applicants, the said lands covered under the deemed Forest, were entitled to the

protection as mandated in ***T.N. Godavarman Thirumulpad Vs. Union of India and Others***[1] case.

II. The Respondents Applicant therefore had sought the following reliefs in the said O.A. No.239/2021.

> "**INTERIM RELIEF:**
> A. Injunct the 1st respondent from felling any tree or clearing undergrowth in the Darkali forest or any area in Auroville for the proposed crown road project.
> B. Issue such other orders as it deems fit in the interest of the case and render justice.
>
> **MAIN PRAYER:**
> A. Direct the 1st respondent to prepare a Detailed Development Plan including a mobility plan which is based on and respects the present-day ground realities, to be approved as mandated in the Master Plan and implement projects based on such plan after necessary impact assessments and feasibility studies in an environmentally sustainable manner.
> B. Direct the respondent to pay costs to the applicant.
> C. Issue such other orders as it deems fit in the interest of the case and render justice."

III. The Tribunal initially vide the order dated 10.12.2021 granted an interim order directing the Appellant-Foundation not to cut any further trees till the next date of hearing. The said interim order thereafter was extended till the final disposal of the case.

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[1](1997) 2 SCC 267

IV. The Appellant-Foundation (1st Respondent before the Tribunal) had filed a counter affidavit raising various contentions including the maintainability of the Application itself as also the jurisdiction of the Tribunal to entertain the Application. It was specifically contended that neither the word 'Forest' did appear in the Auroville Charter nor in the Act of 1988. Auroville or any part of it, was neither a Forest nor a deemed Forest requiring protection or clearance under the Forest (Conservation) Act, 1980.

V. The Respondent No.3-Union of India through the Ministry of Environment, Forest and Climate Change (MoEF&CC- the Respondent No.2 before the Tribunal) had also filed a counter-affidavit stating in detail the stand and role of the Ministry and contending *inter alia* that the requirement of prior Environmental Clearance for certain categories of construction and developmental activities (new construction projects and new industrial estates) in the country was inserted in Schedule-I, after Item 30, through an amendment in EIA Notification, 1994 (operative at that time) vide the Notification dated 07.07.2004. The

Central Government under the Environment (Protection) Act, 1986 had issued Environment Impact Assessment Notification dated 14.09.2006 superseding Environment Impact Assessment Notification 1994, which required prior Environmental Clearance from the concerned Regulatory Authority. It was further contended that the Auroville Project was examined by the said regulatory authority for the applicability of environmental clearance as directed by the Tribunal and it was found that the Auroville Township Project was under construction much before the EIA Notification, 1994 and its amendment in 2004, and substantial building work of Auroville Project was completed at various stages as far back as in 2001. Therefore, it could not have been considered as a new project under the provisions of the Notification dated 07.07.2004. It was specifically contented that there was no change in the scope of Township project from the original Master Plan, and as such the Township project would not affect the provisions of the EIA Notification, 2006 and its

amendments for grant of Environmental Clearance.

VI. The Tribunal raised the following points for consideration.

> "**65**. The points that arise for consideration are:
> **(i)** Whether the application is maintainable?
> **(ii)** Whether it was barred by limitation?
> **(iii)** Whether the intended activity of the 1st respondent requires any prior Environmental Clearance or clearance under the Forest (Conservation) Act, 1980 as claimed by the applicant. Even if they are not required, is there any necessity to issue any directions applying the "*Precautionary Principle*" to protect environment and if so, what are the nature of directions to be issued?"

VII. The Tribunal assuming the jurisdiction observed that a substantial question of alleged violation of environmental laws in the implementation of the project having been involved, the Application was maintainable. Disagreeing with the stand taken by the MoEF&CC that the Project would fall within the exempted category of 2004 Notification and did not require the Environmental Clearance, the Tribunal held that any further activity to be done by the Appellant-Foundation can be permitted to be carried out only after obtaining the necessary prior Environmental Clearance. As regards the

disputed Crown Road, the Tribunal held *inter alia* that the major portion of Crown Road has already been completed and only a small portion has remained, and that if it was not allowed to be completed, there would be hardship caused to the Appellant-Foundation. The Tribunal, on the question as to whether the area in question was a Forest as envisaged in ***T.N. Godavarman's*** case, held that it could not be treated as a Forest, as in none of the Government documents produced, it was treated as Forest, and admittedly it was man-made plantation of some species. The Tribunal therefore held that it would not come under the definition of "Forest" for the purposes of obtaining clearance under the Forest (Conservation) Act, 1980.

VIII. The Tribunal after recording such findings applied the "Precautionary Principle" and issued the directions as stated earlier, vide the impugned judgment and order dated 28.04.2022 in O.A. No. 239/2021, and the impugned order dated 27.07.2022 in M.A. No. 6/2022, which are assailed by the Appellant-Foundation in these Appeals.

IX. It may be noted that one of the intervenors before the Tribunal, Ms. Natasha Storey had also filed a Writ Petition being No.25882/2022 challenging the Notification dated 01.06.2022 containing the Standing Order No. 1/2022 issued by the Appellant-Foundation, and the Civil Appeal No. 13651/2024 arising out of the order passed in the said Writ Petition was also heard simultaneously with the present set of Appeals. The said Appeal is also being decided simultaneously by a separate judgment.

6. Statutory Provisions of the NGT Act

I. As the long title of the Act states, the National Green Tribunal Act, 2010 (for short "NGT Act") was enacted to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forest and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for the matters connected therewith and incidental

thereto. Section 2(1)(m) defines "substantial question relating to environment" as under:

> **"2(1)(m)** "substantial question relating to environment" shall include an instance where,—
>
> (i) there is a direct violation of a specific statutory environmental obligation by a person by which,—
> (A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or
> (B) the gravity of damage to the environment or property is substantial; or
> (C) the damage to public health is broadly measurable;
>
> (ii) the environmental consequences relate to a specific activity or a point source of pollution;"

II. Chapter III of the said Act pertains to the jurisdiction, powers and proceedings of the Tribunal. Section 14 and Section 15 thereof being relevant in respect of the jurisdiction of the Tribunal, the same are reproduced hereunder:

> **"14. Tribunal to settle disputes.—**
>
> (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.
> (2) The Tribunal shall hear the disputes arising from the questions referred to in

sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:
Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

15. Relief, compensation and restitution.—

(1) The Tribunal may, by an order, provide,—
(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);
(b) for restitution of property damaged;
(c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:
Provided that the Tribunal may, if it is satisfied that the applicant was prevented

by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority."

III. Section 19 of the NGT Act pertains to the Procedure and Powers of the Tribunal, which *inter alia* states that the Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principle of natural justice. It also states that the Tribunal shall not be bound by the rules of evidence contained in the Indian Evidence Act, 1872. Section 20 provides that the Tribunal shall, while passing any order or decision or award, apply the Principles of Sustainable Development, the Precautionary Principle and the Polluter Pays Principle.

IV. The enactments in respect of which the Tribunal has the jurisdiction to grant relief under Section 14 and 15 are specified in Schedule-I appended to the NGT Act, which reads as under:

> **"SCHEDULE I**
> [See sections 14(1), 15(1), 17(1)(a), 17(2), 19(4)(j) and 34(1)]
>
> 1. The Water (Prevention and Control of Pollution) Act, 1974;
> 2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
> 3. The Forest (Conservation) Act, 1980;
> 4. The Air (Prevention and Control of Pollution) Act, 1981;
> 5. The Environment (Protection) Act, 1986;
> 6. The Public Liability Insurance Act, 1991;
> 7. The Biological Diversity Act, 2002."

ANALYSIS:

7. As transpiring from the Section 14, the Tribunal has the jurisdiction over all civil cases where the substantial question relating to environment including enforcement of any legal right relating to environment, is involved and such question arises out of the implementation of the enactments specified in Schedule I. Therefore, for the exercise of jurisdiction by the Tribunal under Section 14, it has to be shown that (1) a substantial question relating to environment including enforcement of any legal right relating to environment is involved;

and (2) such questions arise out of the implementation of the enactments specified in Schedule I. The term "substantial question relating to environment" as defined in Section 2(1)(m) of the Act would include, *inter alia,* the question where there is a direct violation of a specific statutory environmental obligation by a person by which (a) the community at large other than the individual or group of individuals is affected or likely to be affected by the environmental consequences; or (b) the gravity of damage to the environment or property is substantial; or (c) the damage to public health is broadly measurable. The substantial question would also include the environmental consequences relating to a specific activity or a point source of pollution. In view of the said definition also the Tribunal before exercising the jurisdiction has to satisfy itself that a substantial question pertaining to the violation of or implementation of any specific statutory environmental obligations contained in any of the enactments specified in Schedule I, is involved.

8. Recently in case of ***State of Madhya Pradesh Vs. Centre for Environment Protection Research and Development***[2]**,** this Court held as follows:

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[2] (2020) 9 SCC 781

> "**42.** In view of the definition of "substantial question relating to environment" in Section 2(1)(*m*) of the NGT Act, the learned Tribunal can examine and decide the question of violation of any specific statutory environmental obligation, which affects or is likely to affect a group of individuals, or the community at large.
>
> **43.** For exercise of power under Section 14 of the NGT Act, a substantial question of law should be involved including any legal right to environment and such question should arise out of implementation of the specified enactments.
>
> **44.** Violation of any specific statutory environmental obligation gives rise to a substantial question of law and not just statutory obligations under the enactments specified in Schedule I. However, the question must arise out of implementation of one or more of the enactments specified in Schedule I."

Similar view is also taken in case of ***H.P. Bus-Stand Management and Development Authority Vs. Central Empowered Committee***[3]***.***

9. From the above, it is explicitly clear that every question or dispute raised by an Applicant before the Tribunal pertaining to the environment cannot be treated as a substantial question. It has to be a substantial question relating to environment as contemplated in Section 2(1)(m), and such substantial question must arise out of the implementation of any of the

[3] **(2021) 4 SCC 309**

enactment/enactments specified in Schedule I. Though strict law of evidence may not be applicable to the cases filed before the Tribunal, the Applicant has to raise the substantial question in his Application specifically alleging the violation of a particular enactment specified in Schedule I.

10. So far as the facts of the present Appeal are concerned, as stated hereinabove, the only grievance raised by the Respondents (original Applicants) in their O.A. was with regard to the Appellant-Foundation constructing the roads as mentioned in the Master Plan which was already approved by the Governing Board of the Foundation and by the Minister of Human Resource Development way back in 2001, and published in the official gazette in 2010. The allegation made in the Original Application was that while constructing the said roads particularly the Crown road, or road encircling the centre of township, and an Outer Ring Road, the forest area known as Darkali forest was being destructed. According to the Respondents, the said area was required to be treated as a deemed forest and was required to be protected as mandated in the ***T.N. Godavarman's* Case**. Except the said bare allegations, there was no other allegation

made with regard to any violation of any of the enactments specified in Schedule I.

11. Significantly, the Tribunal specifically negated the said allegations raised by the Respondents by observing *inter alia* in para 118 of the impugned judgment that the said area cannot be treated as a Forest, as in any of the Government documents produced, it was not treated as a Forest and not even shown as a Forest, and that admittedly, it was a man-made plantation of some species, and therefore, it will not come under the definition of Forest for the purpose of obtaining clearance under the Forest (Conservation) Act, 1980. Curiously, after having held that the area in question could not be treated as a Forest and that there was no clearance required under the Forest (Conservation) Act, the Tribunal proceeded further applying the "Precautionary Principle" and appointed a Joint committee to inspect the area in question and ascertain whether any modification could be made in the width of the road, and further directed the Appellant-Foundation to prepare a proper Township plan in respect of the area in their possession and in respect of the area visualized by the "Mother".

12. In our opinion, the Tribunal has completely misdirected itself by entering into the restricted domain of judicial review under the guise of applying "Precautionary Principle" in extraordinary circumstances, and in interfering with the implementation of Master Plan which was already approved by the competent Authority way back in the year 2001. As stated earlier, the original Galaxy Plan envisaged by the "Mother" in 1968 was the structure with 4 zones in Auroville with the centripetal force, being "Matrimandir". The said Galaxy Plan was revised in 1972 as the First Master Plan called the "Town Plan". Since the Auroville Foundation Act required Statutory Master Plan as contemplated in Section 17(e) read with Section 19(2)(c), the said Master Plan was approved by the Governing Board of the Appellant Foundation in 1999, and was further approved by the competent authority-Town and Country Planning Organisation, Ministry of Urban Development on 15.02.2001. The said Master Plan was also notified on 16.08.2010 and published in the Official Gazette on 28.08.2010.

13. Thus, the said Master Plan having been approved by the competent Authority as back as in 2001 had attained a statutory force and a finality. There are

about more than 2000 substantial constructions/ developments, which have taken place in Auroville since then till this date. The construction of roads as mentioned in the said approved Master Plan including the Crown Road, a Road encircling the Centre of the Township and an outer Ring Road, being on the verge of completion, except few patches, which could not be completed because of the obstructions caused by the disgruntled Residents like the Respondents, the Tribunal thoroughly misdirected itself by directing the Appellant to prepare a proper Township Plan. It is also significant to note that the Auroville Foundation Act is a Special Act enacted to provide for the Acquisition and Transfer of the Undertakings of Auroville and to vest such undertakings in a Foundation established for the purpose with a view to making long term arrangements for the better management and further development of Auroville in accordance with its Original Charter and for the purpose connected therewith and incidental thereto. As per Section 27 of the said Act, the provisions of the said Act have the effect notwithstanding anything inconsistent therewith contained in any other law for time being in force or in any instrument having effect by virtue of any law other

than the Act, or in any decree or order of any Court, Tribunal or other Authority. Thus, in view of the overriding effect of A.F. Act also the impugned direction issued by the Tribunal without any jurisdiction as circumscribed under Section 14 of the NGT Act, would not be tenable at law.

14. The Tribunal has also travelled beyond its jurisdiction in giving the impugned directions under the guise of exceptional circumstances applying the "Precautionary Principle." At this juncture, it is very pertinent to note that as stated earlier, the Ministry of Environment, Forest and Climate Change in its affidavit filed before the Tribunal had made its stand very clear that the Auroville Township Project was under construction much before the EIA Notification, 1994 and its amendment in 2004 and therefore could not be considered as a new Project under the said Notification of 2004. It was also made clear that there was no change in the scope of Township Project from the Original Master Plan and as such, the Township Project would not affect the provisions of EIA Notification, 2006 and its amendments for the grant of Environment Clearance. Again curiously, the Tribunal without any material on record, brushed aside the said

stand taken by MoEF&CC in its affidavit, by holding that any further activity to be done by the Appellant-Foundation, could be permitted to be carried out only after obtaining necessary prior Environmental Clearance, and then proceeded to appoint the Joint Committee to inspect the area in question and to ascertain whether the width of the Road at suitable places could be reduced so that the number of trees to be cut can be minimized. Such directions clearly fall outside the purview of the jurisdiction of the Tribunal particularly when there was no substantial question relating to the environment was shown to have arisen in implementation of any of the enactments specified in Schedule I appended to the NGT Act. There is no whisper in the impugned order as to which of the provision and which of the enactment specified in Schedule I was violated.

15. It would not be out of place to regurgitate the law developed so far on the protection of environment. In the landmark Judgment in case of ***Vellore Citizens Welfare Forum Vs. Union of India & Others***[4], it was stated that the traditional concept that Development and Ecology are opposed to each other is no longer

[4] (1996) 5 SCC 647

acceptable. "Sustainable Development" has been accepted as a viable concept to eradicate poverty and improve the quality of human life, while living within the carrying capacity of supporting ecosystems. "Sustainable Development" as defined by Brundtland Report means "development that meets the needs of the present without compromising the ability of the future generations to meet their own needs." The "Sustainable Development" therefore has been held to be a balancing concept between Ecology and Development as a part of the customary international law.

16. In ***Essar Oil Ltd. Vs. Halar Utkarsh Samiti & Ors.***[5]**,** this Court after referring to the principles enunciated in the Stockholm Declaration, made very apt observations in Para 26 and 27, which maybe quoted hereunder: -

> **"26.** Certain principles were enunciated in the Stockholm Declaration giving broad parameters and guidelines for the purposes of sustaining humanity and its environment. Of these parameters, a few principles are extracted which are of relevance to the present debate. Principle 2 provides that the natural resources of the earth including air, water, land, flora and fauna especially representative samples of natural ecosystems must be safeguarded for the benefit

[5] (2004) 2 SCC 392

of present and future generations through careful planning and management as appropriate. In the same vein, the fourth principle says:

> "man has special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat which are now gravely imperilled by a combination of adverse factors. Nature conservation including wildlife must, therefore, receive importance in planning for economic developments."

These two principles highlight the need to factor in considerations of the environment while providing for economic development. The need for economic development has been dealt with in Principle 8 where it is said that "economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for improvement of the quality of life". The importance of maintaining a balance between economic development on the one hand and environment protection on the other is again emphasized in Principle 11 which says:

> "The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries nor should they hamper the attainment of better living conditions for all;"

27. This, therefore, is the aim, namely, to balance economic and social needs on the one hand with environmental considerations on the other. But in a sense all development is an environmental threat. Indeed, the very existence of humanity and the rapid increase in the population together with consequential demands to sustain the population has resulted in the concreting of open lands, cutting down of forests, the filling up of lakes and pollution of water resources and the very air which we breathe. However, there need

> not necessarily be a deadlock between development on the one hand and the environment on the other. The objective of all laws on environment should be to create harmony between the two since neither one can be sacrificed at the altar of the other. This view was also taken by this Court in Indian Council for Enviro-Legal Action v. Union of India [(1996) 5 SCC 281] , where it was said: (SCC p. 296, para 31)
>
> > "While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment."

17. Though it is true that the "Precautionary Principle" and the "Polluter Pays Principle" are part of the environmental law of the country, it is equally true that while the right to clean environment is a guaranteed fundamental right under Articles 14 and 21 of the Constitution of India, the right to development through industrialisation equally claims priority under fundamental rights particularly under Articles 14,19 and 21 of the Constitution of India. There is therefore a need for "Sustainable Development" harmonising and striking a golden balance between the right to

development and the right to clean environment. In ***N.D. Jayal & Anr. Vs. Union of India & Ors.***[6]**,** it is observed as under: -

> "**25.** Therefore, the adherence to sustainable development principle is a *sine qua non* for the maintenance of the symbiotic balance between the rights to environment and development. Right to environment is a fundamental right. On the other hand, right to development is also one. Here the right to "sustainable development" cannot be singled out. Therefore, the concept of "sustainable development" is to be treated as an integral part of "life" under Article 21. Weighty concepts like intergenerational equity (*State of H.P.* v. *Ganesh Wood Products* [(1995) 6 SCC 363]), public trust doctrine (*M.C. Mehta* v. *Kamal Nath* [(1997) 1 SCC 388]) and precautionary principle (*Vellore Citizens* [(1996) 5 SCC 647]), which we declared as inseparable ingredients of our environmental jurisprudence, could only be nurtured by ensuring sustainable development."

18. As demonstrated earlier, in the instant case, no substantial question relating to environment had arisen, nor violation of any of the enactments specified in Schedule-I was alleged. The Tribunal therefore had committed gross error in assuming the jurisdiction and giving directions untenable in law.

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[6] (2004) 9 SCC 362

19. In that view of the matter, the impugned Orders passed by the Tribunal being without jurisdiction and legally untenable deserve to be quashed and set aside, and are hereby set aside. The Appeals stand allowed accordingly.

.....J.
[BELA M. TRIVEDI]

..... J.
[PRASANNA B. VARALE]

NEW DELHI;
17th MARCH, 2025

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2407-2412 OF 2021

THE STATE OF UTTAR PRADESH
& ORS. ETC. ETC. ...APPELLANT (S)

VERSUS

UDAY EDUCATION AND WELFARE
TRUST AND ANR. ETC. ETC. ...RESPONDENT(S)

WITH
CIVIL APPEAL NOS. 3144-3146 OF 2022
CIVIL APPEAL NOS.3132-3134 OF 2022
CIVIL APPEAL NOS.3135-3137 OF 2022
CIVIL APPEAL NO.3138 OF 2022
CIVIL APPEAL NOS.4061-4062 OF 2022
CIVIL APPEAL NO.3141 OF 2022
CIVIL APPEAL NOS.2547-2548 OF 2020
CIVIL APPEAL NOS.3142-3143 OF 2022
CIVIL APPEAL NOS.3147-3149 OF 2022

J U D G M E N T

B.R. GAVAI, J.

1. For the reasons stated in the applications for impleadment/intervention, the same are allowed.

Validity unknown
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Date: 2022.10.13 13:20:31 IST
Reason:

2. This bunch of appeals challenges the order dated 18th February 2020, passed by the learned National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as "the learned NGT") in Original Application Nos.313, 335 and 396 of 2019, thereby quashing and setting aside the notice dated 1st March 2019 issued by the State of Uttar Pradesh for establishing new wood based industries (hereinafter referred to as "WBIs") and also setting aside all the provisional licenses given in pursuance thereof.

3. The appeals also challenge the orders dated 18th March 2020, 2nd December 2020, and 21st December 2020 vide which the review applications filed by the State of Uttar Pradesh and the provisional license holders have been rejected.

4. Civil Appeal Nos.2407-2412 of 2021 are filed by the State of Uttar Pradesh. The rest of the Civil Appeals are filed by the provisional license holders, who were granted licenses in pursuance of the notice dated 1st March 2019, issued by the State of Uttar Pradesh.

FACTUAL BACKGROUND

5. For the sake of convenience, we will refer to the facts as found in Civil Appeal Nos. 2407-2412 of 2021 filed by the State of Uttar Pradesh.

6. There are series of orders passed by this Court and the Central Empowered Committee (hereinafter referred to as "CEC") appointed by this Court, issuing various directions for prohibiting/regulating the felling of trees as well as the establishment of WBIs. We will refer to them extensively in the subsequent paragraphs.

7. In pursuance of the order passed by this Court dated 5th October 2015 in Writ Petition (Civil) No.202 of 1995 (T.N. Godavarman Thirumalpad vs. Union of India), the Ministry of Environment and Forest and Climate Change ("MOEFCC" for short) issued Wood Based Industries (Establishment and Regulation) Guidelines 2016 (hereinafter referred to as "2016 Guidelines") vide Notification No. S.O. 3456 (E) dated 11th November 2016.

8. Subsequent to the 2016 Guidelines, timber assessment for Trees Outside Forest ("TOF" for short) in the State of Uttar Pradesh for WBIs was done for the period between February 2017 and December 2017 by the Forest Survey of India ("FSI" for short). The FSI thereafter submitted its report, which contains district wise, species wise and diameter class wise number of stems (trees), volume and annual potential production of timber from TOF in rural areas of all the districts of the State.

9. In pursuance of the 2016 Guidelines, the matter was placed before the State Level Committee ("SLC" for short) for grant of licenses to various WBIs. The SLC in its meeting held on 4th May 2018, considered the matter about the grant of licenses to various WBIs after taking into consideration the availability of wood in the State of Uttar Pradesh for determining the amount of timber available for new WBIs. In the said meeting, it was also decided that, in order to determine the correct number of new licenses to be issued to WBIs under different categories against the timber

available in the State, a reassessment may be done by the Indian Plywood Industries Research and Training Institute ("IPIRTI" for short).

10. In the meeting of the SLC, held on 7th September 2018, since it was found that the capacity of plywood units is taken as fixed by the 2016 Guidelines, which, in turn, was based on the assessment of IPIRTI, a decision was taken that there was no need for the fresh assessment of the capacity by IPIRTI.

11. In pursuance of the aforesaid decision, E-lottery was held on 12th December 2018 for grant of licenses to various WBIs for the establishment of WBIs in 8 categories. Between 12th December 2018 and 31st December 2018, online letters of offer were issued to 1348 successful applicants. Subsequently, in the months of February and March 2019, provisional licenses were issued to 1215 successful applicants in the 8 categories to set up their WBIs. Subsequent thereto, on 1st March 2019, a notice was

issued by the Government of Uttar Pradesh communicating the grant of provisional licenses to the newly selected WBIs.

12. Being aggrieved thereby, Original Application No. 313 of 2019 came to be filed by Uday Education and Welfare Trust before the learned NGT in March 2019. Vide order dated 28th March 2019, the learned NGT directed the State Government to submit a report from the Joint Committee comprising of the representative of Principal Secretary (Forest), U.P. and the Principal Chief Conservator of Forest, U.P. to examine the issues.

13. Being aggrieved by the notice dated 1st March 2019 issued by the State Government, Original Application Nos. 335 and 396 of 2019 also came to be filed by Samvit Foundation and U.P. Timber Association respectively before the learned NGT.

14. In pursuance of the directions issued by the learned NGT, the Joint Committee Report came to be submitted on 3rd August 2019. Vide order dated 6th August 2019 passed in Original Application nos. 313, 335 and 396 of 2019, the

learned NGT directed the State Government to review the notice dated 1st March 2019 with regard to the establishment of new WBIs by 1350 units strictly in terms of the judgment of this Court in the case of ***T.N. Godavarman vs. Union of India***. Vide order dated 1st October 2019, the learned NGT directed the status quo to be maintained.

15. The State of Uttar Pradesh filed an Interlocutory Application No.732 of 2019 in O.A. Nos. 313, 335 and 396 of 2019, seeking modification of the order dated 6th August 2019 and the order dated 1st October 2019. Vide order dated 18th December 2019, the learned NGT issued directions to the State Government to provide certain data. Subsequently, vide the impugned order dated 18th February 2020, the learned NGT allowed the said Original Applications and quashed and set aside the notice dated 1st March 2019 issued by the State Government for establishing new WBIs and all the provisional licenses given.

16. Being aggrieved thereby, Civil Appeal (Diary) No.12004 of 2020 was filed before this Court. Vide order dated 26th October 2020, this Court dismissed the said appeals as withdrawn with a liberty to file review application before the learned NGT. Vide orders dated 18th March 2020, 2nd December 2020, and 21st December 2020, the learned NGT rejected the Review Applications.

17. The appellants, therefore, approached this Court being aggrieved by the orders passed by the learned NGT in the Original Applications as well as in the Review Petitions.

SUBMISSIONS

18. We have heard Shri Vikas Singh, Shri P.S. Patwalia and Mr. Rana Mukherjee, learned Senior Counsel appearing on behalf of the State of Uttar Pradesh, Shri V. Giri, Shri Syed Waseem Qadri, Shri V.K. Uniyal, Shri Vinay Navare, Shri V.K. Shukla, learned Senior Counsels, Ms. Prerna Singh, and Mr. Rudraksh Gupta, learned counsels appearing on behalf of the appellants, who were granted provisional licenses. We have also heard Shri Dhruv Mehta

and Shri Brijender Chahar, learned Senior Counsels appearing on behalf of the respondent No.1.

19. Shri Vikas Singh, learned Senior Counsel, submitted that the decision of the State Government to establish WBIs is in accordance with the 2016 Guidelines issued by the MOEFCC. He submits that the timber requirement by 1215 new WBIs, which were issued provisional licenses is only 12.35 lakh cubic meters per year, whereas the total timber available in the State is 80.30 lakh cubic meters per year. It is, therefore, submitted that, as such, the requirement is not even 20% of the total availability of timber. Learned Senior Counsel submitted that the only authorized agency in the country to conduct a survey of the forest as well as TOF is FSI. It is submitted that the object of IPIRTI is not to conduct a survey of either forest or TOF. It is submitted that, as a matter of fact, the learned NGT itself has directed such a study to be conducted by FSI, who has already undertaken similar studies for many States like Punjab, Maharashtra and others. It is submitted that when the

survey with regard to availability of timber in the State of Uttar Pradesh was done by the very same agency, the learned NGT fell in gross error in again directing the State Government to conduct such a survey through the FSI.

20. It is submitted that even the MOEFCC had supported the stand taken by the State of Uttar Pradesh and, therefore, the learned NGT ought not to have interfered with the decision of the State Government.

21. Shri P.S. Patwalia, learned Senior Counsel also submitted that the decision of the State Government was in tune with the decision of this Court dated 18th May 2007 and 5th October 2015 passed in Writ Petition (Civil) No.202 of 1995 (***T.N. Godavarman Thirumulpad vs. Union of India***). It is submitted that when an expert body like the FSI had done an elaborate study, there was no reason for the learned NGT to have sat in appeal over the same. He further submits that though a detailed affidavit has been filed on behalf of the State of Uttar Pradesh in compliance with the order of the learned NGT dated 18th December

2019, regarding the availability of timber, the learned NGT has totally ignored the same.

22. Shri V. Giri, learned Senior Counsel, submits that the learned NGT erred in passing orders which have vitally affected the rights of the citizens who were granted provisional licenses. He submits that the order impugned is totally in breach of the principles of natural justice. It is submitted that, from the perusal of the record, it is clear that the State of Haryana while calculating its requirement for wood also takes into consideration the import from the State of Uttar Pradesh. It is submitted that when there is excess wood available in the State of Uttar Pradesh, there is no reason why the same should be permitted to be exported to the State of Haryana at the cost of entrepreneurs in the State of Uttar Pradesh.

23. Shri Vinay Navare, learned Senior Counsel, submitted that the timber used in the WBIs is from the trees which are agro-based. He submits that though the State of Uttar Pradesh had adopted an elaborate procedure right from

June 2018 till the grant of licenses, the applicants before the learned NGT had taken no steps. Shri Navare submits that only after the provisional licenses were issued and 632 out of 1215 WBIs provisional license holders had already been established and commenced operations, the applications were entertained and the orders were passed to the prejudice of the WBIs. It is submitted that Section 19(1) of the National Green Tribunal Act, 2010 (hereinafter referred to as "the NGT Act") mandates following of the principles of natural justice. It is submitted that though the applications for impleadment were made by the WBIs, the applicants were not granted an opportunity of being heard.

24. Shri V.K. Uniyal, learned Senior Counsel submitted that the learned NGT had erred in using the word "allotted". It is submitted that there is no question of allotment of timber to the WBIs and they are required to purchase the same from the open market.

25. Shri V.K. Shukla, learned Senior Counsel submitted that the State Government decided to grant provisional licenses for 8 different categories of WBIs. The requirement of raw material for different categories of WBIs is different. It is submitted that the learned NGT has grossly erred in considering all categories of WBIs together and setting aside the licenses granted to all of them. It is submitted that the said industries are established in pursuance of the National Agro Forestry Policy of 2014 and as such the learned NGT ought not to have interfered.

26. Ms. Prerna Singh, learned counsel appears for the appellants, who have been granted provisional licenses for plywood (press only) category. She submits that for plywood (press only) industries, there is no requirement of consumption of timber directly. It is submitted that initially veneer is manufactured out of round/fresh timber. Veneer then so manufactured is glued and pressed together to manufacture plywood. It is submitted that the learned NGT has considered the requirement of timber as twice the

actual requirement. She submits that in the State of Uttar Pradesh, veneer is manufactured in surplus, which is exported to the State of Haryana.

27. Shri Rudraksh Gupta, learned counsel, submits that the learned NGT has failed to take into consideration the report of the National Poplar Commission of India.

28. All the learned counsel appearing on behalf of the appellants, in unison, submit that the original applicants before the Court were not *bonafide* litigants. It is submitted that there are reasons to believe that the proceedings were initiated at the instance of either the existing WBIs in the State of Uttar Pradesh to prevent competition or they were filed at the instance of the WBIs in the State of Haryana who were importing timber from the State of Uttar Pradesh at cheaper rates.

29. Shri Dhruv Mehta, learned Senior Counsel appearing on behalf of the respondent No.1, on the contrary, submits that this Court has repeatedly held that the principles of sustainable development, the precautionary principle and

the polluter pays principle are to be followed consistently. He raised a preliminary objection on the ground that in view of Section 22 of the NGT Act, the scope of an appeal before this Court could be limited to that of Section 100 of the Code of Civil Procedure, 1908. It is, therefore, submitted that unless a substantial question of law is raised, the appeal could not be tenable.

30. Shri Dhruv Mehta submits that this Court vide order dated 12th December 1996 has specifically prohibited the felling of trees in any forest, public or private. He further relies on the report of CEC dated 15th March 2005 to buttress his submission that WBIs can be permitted only if they exclusively use timber derived from poplar and eucalyptus species or agriculture waste products. It is submitted that the said guidelines also specifically provided that if the unit is found to have used any timber other than poplar and eucalyptus whether from a legal source or otherwise, the license granted to the unit shall be liable to be cancelled. He further relies on the report of CEC dated

12th October 2006. He submits that an assessment has to be done on the basis of the district-wise survey about timber availability from the TOF category. He submits that the said report of CEC itself would reveal that the assessment of the State is much less than what was initially projected by the State Government. He submits that unless the timber availability for the new WBIs is assessed and the SLC examines and recommends its approval, it is not permissible to establish new WBIs.

31. Shri Mehta further submits that the report of CEC dated 18th April 2007, accepted by this Court vide its order dated 18th May 2007, would show that the availability of timber for WBIs in the State of Uttar Pradesh is only 45.70 lakh cubic meters per year. Learned Senior Counsel submits that taking into consideration the fact that presently many imported machines from China are being used, the capacity of the existing units has gone much higher and, therefore, the timber which is available in the

State of Uttar Pradesh would not be sufficient to meet the demand of the existing industries.

32. Shri Mehta submits that when SLC in its meeting dated 4th May 2018 had decided to get a report from IPIRTI, there was no occasion for it to review its decision in its subsequent meeting dated 7th September 2018. He submits that the Senior Officer of the Forest Department of the rank of Chief Conservator of Forest, Kanpur Division, Kanpur recommended that the report from IPIRTI should be obtained before deciding to issue the new licenses. It is submitted that the letters of the said officer dated 11th September 2019 and 20th April 2018 have been ignored by the SLC.

33. Shri Dhruv Mehta further submits that Annexure-I to the 2016 Guidelines is in contravention of the recommendations of CEC, which takes the requirement of timber for plywood unit as "NIL".

34. The learned Senior Counsel submits that vide Notification dated 20th July 2012, the State of Uttar Pradesh

had notified 7 species of trees in the prohibited category. However, vide another Notification dated 31st October 2017, the said trees were taken out of the prohibited category. The learned NGT had set aside the said Notification of 2017 by order dated 11th September 2018. It is submitted that the said order of the learned NGT has been accepted by the State of Uttar Pradesh and a fresh notification has been issued on 7th January 2020, again bringing the said trees in the prohibited category. The learned Senior Counsel submits that while assessing the availability of timber, the trees under the said prohibited category have also been taken into consideration. He submits that if 20.75 lakh cubic meters is deducted from the availability of the timber, then the timber available in the State would be much less.

35. The learned Senior Counsel further submits that the survey has not been conducted for all the districts and has been conducted only for 30 districts and, therefore, the survey itself is erroneous.

36. The learned Senior Counsel further submits that FSI, while conducting the survey, has not taken into consideration the rotation period and, therefore, the survey is erroneous on the said count also. Learned Senior Counsel, in support of his submissions, relies on the judgment of this Court in the cases of ***Common Cause vs. Union of India and others***[1], ***Mantri Techzone Private Limited vs. Forword Foundation and others***[2], ***Municipal Corporation of Greater Mumbai vs. Ankita Sinha and Others***[3] and ***Pragnesh Shah vs. Dr. Arun Kumar Sharma and others***[4].

37. Shri Dhruv Mehta, relying on the judgment of this Court in the case of ***Ankita Sinha and Others (supra)***, submits that this Court itself has considered the learned NGT to be a special Tribunal and held that it will even have jurisdiction to take suo motu cognizance of the environmental issues. He, therefore, submits that the

[1] (2017) 9 SCC 499
[2] (2019) 18 SCC 494
[3] 2021 SCC OnLine SC 897
[4] 2022 SCC OnLine SC 79

arguments made on behalf of the appellants with regard to locus are without substance.

38. Shri Vikas Singh, learned Senior Counsel, in rejoinder, submits that the only distinction between the prohibited trees and non-prohibited trees is that the non-prohibited trees can be felled without permission, whereas prohibited trees can be felled only in certain circumstances and only after the requisite permission is granted. He submits that the perusal of the FSI survey would reveal that even after the timber requirement for 1215 new units is taken into count, the State, still, will have 26.36 lakh cubic meters in reserve. He submits that if the new WBIs are permitted, it would result in more farmers going in for agro forestry in the State, which, in turn, will increase the forest cover. It is submitted that said 1215 units are likely to give employment to around 80000 people. Learned Senior Counsel, therefore, submits that the impugned orders deserve to be quashed and set aside.

EARLIER ORDERS OF THIS COURT

39. For appreciating the rival submissions, it will be apposite to refer to certain orders passed by this Court.

40. This Court in the case of ***T.N. Godavarman (supra)*** passed an order on 12th December 1996. The relevant part thereof is as under:

> "6. Each State Government should within two months, file a report regarding –
>
> (i) the number of saw mills, veneer and plywood mills actually operating within the State, with particulars of their real ownership;
>
> (ii) the licenced and actual capacity of these mills for stock and sawing;
>
> (iii) their proximity to the nearest forest;
>
> (iv) their source of timber.
>
> 7. Each State Government should constitute within one month, an Expert Committee to assess:
>
> (i) the sustainable capacity of the forests of the State qua saw mills and timber based industry;

(ii) The number of existing saw mills which can safely be sustained in the State;

(iii) The optimum distance from the forest, qua that State, at which the saw mill should be located."

41. Vide subsequent order dated 4th March 1997[5], this Court directed thus:

> "**6.** All unlicensed saw mills, veneer and plywood industries in the State of Maharashtra and the State of Uttar Pradesh are to be closed forthwith and the State Government would not remove or relax the condition for grant of permission/licence for the opening of any such saw mill, veneer and plywood industry and it shall also not grant any fresh permission/licence for this purpose. The Chief Secretary of the State will ensure strict compliance of this direction and file a compliance report within two weeks."

42. Vide order dated 9th May 2002, this Court constituted CEC for monitoring of the implementation of the orders passed by this Court and for placing non-compliances of the cases before it.

[5] (1997) 3 SCC 312

43. Vide order dated 29th October 2002[6], this Court further directed thus:

> "**44.** No State or Union Territory shall permit any unlicensed sawmills, veneer, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any sawmills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict compliance with this direction. There shall also be no relaxation of rules with regard to the grant of licence without previous concurrence of the Central Empowered Committee.
>
> **45.** It shall be open to apply to this Court for relaxation and or appropriate modification or orders qua plantations or grant of licences."

44. Vide order dated 1st September 2006, this Court allowed licenses to be issued to the closed sawmills, Veneer and Plywood units as per availability of timber and eligibility and seniority as per CEC recommendation.

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[6] (2008) 16 SCC 337

45. In pursuance of the orders passed by this Court, SLC was constituted by the State of Uttar Pradesh for verification and compilation of information about closed WBIs.

46. The FSI conducted its assessment and assessed the annual availability of wood from TOF in the State of Uttar Pradesh at 55.61 lakh cubic meters vide report dated 3rd April 2007.

47. On the basis of the report of the FSI, the SLC assessed the annual availability of timber for WBIs from TOF at 53.01 lakh cubic meters. CEC further reduced the same to 43.70 lakh cubic meters. However, it added 2.00 lakh cubic meters per year as timber available from government forests, and, therefore, assessed the annual availability of timber at 45.70 lakh cubic meters.

48. It is to be seen that in its report itself, the CEC included 17.77 lakh cubic meters of timber from the prohibited species. This Court considered the report of CEC and passed the following order on 18th May 2007:

> "The matters relate to Saw Mills, Plywood and Veneer Units.

> The CEC has considered the availability of wood for the industries, which was assessed as 43.70 lakh cu. mt from trees outside forests and 02.00 lakh cu. mt from Government Forests.
>
> It has also assessed the units into four categories.
>
> We accept the CEC's recommendations. The Saw Mills, Plywood and Veneer Units may be permitted, on the basis of the recommendations made by the CEC. Licences may be given by the State Level Committees.
>
> If there are any objections regarding grant of licences, the parties would be at liberty to submit their applications before the CEC for consideration."

49. It could thus be seen that in 2007 itself, this Court had accepted the recommendations of the CEC wherein the CEC had computed the total availability of timber and had also taken into consideration the availability of timber from the prohibited category.

50. Vide order dated 29th February 2008, this court considered the issue regarding the manufacturing of Medium Density Fiber board (MDF) and Particle board in

the States of Punjab, Uttarakhand and Karnataka. While considering the same, this Court passed the following order:

> "The matter relates to the manufacturing of Medium Density Fiber board (MDF) and Particle Board in the States of Punjab, Uttarakhand and Karnataka. CEC has filed its report and stated that there is a growing trend to use more and more MDF / Particle Board in place of industrial timber. The MDF/Particle Board help in reducing the pressure on natural forests. The lops and tops and small wood available from the plantations of eucalyptus, poplar, etc. raised on the non-forest can be used by MDF/Particle Board plants."

51. In view of the permissions granted by this Court, the licenses were granted to the unlicensed sawmills which were closed on account of the orders passed by this Court taking into consideration the availability of timber between 2007 and 2010. However, it is to be noted that the said licenses were granted only to the units which were closed and not to the new units.

52. The matter again came up for consideration before this Court on 30th April 2010, when this Court passed the following order:

> "(II) after meeting the requirement of the licensed wood based industry, the units permitted by this Hon'ble Court and the units whose category is yet to be finalised, the plywood/veneer units falling in category IV may be considered for grant of license to the extent of timber availability and strictly in the order of seniority, subject to the one-time payment of Rs.9 lakhs per press in respect of the veneer units and compliance of the other conditions that have been stipulated. The one-time payment of penalty will be in addition to the normal licence fee and the other charges, if any, payable to the U.P. Forest Department. As decided earlier, the above said amount should be kept in a designated interest bearing bank account and should be utilized only after the scheme in this regard is approved by this Hon'ble Court;"

53. It could thus be seen that this Court permitted granting of additional licenses if additional timber was found to be available.

54. The CEC in its meeting held on 26th May 2010 with the SLC and representatives of WBIs Associations in the State of

Uttar Pradesh, after taking into consideration the capacity of timber for Vertical Band Saw (VBS) sawmill, modified/reduced the value of capacity of timber for VBS sawmills upto 10 Horse Power from 540 to 270 cubic meters per year for the State of Uttar Pradesh in line with other States. As such, additional 9,58,230 cubic meters of timber became available for licenses from 3,549 such VBS units. In view of this position between 2010 and 2015, licenses came to be issued by the State of Uttar Pradesh to unlicensed WBIs, which were closed earlier by the order of this Court, as per the criteria recommended by the CEC and accepted by this Court.

55. The matter again came up for consideration before this Court on 5th October 2015 with regard to WBIs, when this Court passed the following order:

> "**CATEGORY I - MATTERS RELATING TO WOOD BASED INDUSTRIES:**
>
> We have heard Shri Harish Salve, learned *amicus curiae,* Shri Ranjit Kumar, learned Solicitor General of India, Shri K.K. Venugopal, learned senior counsel and other learned senior

counscl/counscls. Accordingly, we pass the following orders:

(i) The State Level Committees for Wood-Based Industries ("SLCs") are, subject to the compliance of the prescribed guidelines and procedure, authorized to take decisions regarding the grant of license/permission to the wood-based industries;

(ii) In each State/UT for which the SLC has so far not been constituted, the SLC under the Chairmanship of the Principal Chief Conservator of Forests with a representative of the Ministry of Environment and Forest and Climate Change ("MoEFCC") and an officer of the State Forest Department/Industries Department not below the rank of the Chief Conservator of Forests/ equivalent rank will immediately be constituted;

(iii) The MoEF is authorized to issue appropriate guidelines in conformation with the orders and directions issued by this Court and also the existing guidelines to the SLCs relating to assessment of timber availability for wood-based industries and grant of license/permission to the wood-based industries including addition of new machineries and also utilization of amounts recovered from the wood-based industries and connected matters;

(iv) Any person aggrieved by the decision taken by the SLC may file an appeal before the MoEFCC seeking appropriate relief within 60 days' time. If, for any reason, any person is aggrieved by the orders so passed in the appeal, he may prefer an appropriate petition/application/appeal before the appropriate forum/Court for grant of appropriate relief(s).

We also permit the MoEFCC to condone the delay, if any, in filing an appeal, if sufficient cause is made out by the applicant(s)/appellant(s)"

56. It is thus seen that vide the said order, SLCs were authorized to take decisions regarding the grant of license/permission to the WBIs. Vide the said order, it was also directed to constitute SLC under the Chairmanship of the Principal Chief Conservator of Forest with a representative of MOEFCC and an officer of the State Forest Department/Industries Department not below the rank of the Chief Conservator of Forests/equivalent rank. This Court further directed the SLCs to be constituted in each State/Union Territory for which the SLC was not yet constituted. The MOEF was also authorized to issue

appropriate guidelines in conformity with the orders and directions issued by this Court and also the existing guidelines to the SLCs relating to the assessment of timber availability for WBIs. Appeals could be filed before MOEFCC against the decision of the SLC.

MOEFCC GUIDELINES

57. In accordance with the directions issued by this Court vide order dated 5th October 2015, the MOEFCC issued 2016 Guidelines on 11th November 2016. The 2016 Guidelines provided for the constitution of the SLC as well as the powers and functions of SLC. Under clause 4 of the 2016 Guidelines, the SLC was authorised to assess the availability of timber for wood based industrial units in the State/UT every five years. The SLC was also authorised to approve appropriate locations for setting up of wood based industrial units. It was also authorized to approve the name of wood based industrial units which may be

considered for grant of fresh license or enhancement of the existing licensed capacity.

58. Clause 5 of the 2016 Guidelines provides for the assessment of the availability of timber for wood based industrial units. It requires that the quantity of timber would be assessed by commissioning the study, preferably in collaboration with institutes/universities of repute, once in five years. Under clause 6 of the 2016 Guidelines, the timber requirement for various units as assessed by IPIRTI was given in Annexure I. The said Annexure I reads thus:

> "The Indian Plywood Industry Research and Training Institute (IPIRTI), Bangalore an autonomous body under the Ministry of Environment, Forest and Climate Change has assessed the timber requirement per unit for peeling length of 4 feet and 8 feet size in the plywood/veneer units as 5 cu.mt and 11 cu.mt. respectively per day on an average of 8 working hours per day. By assuming that the peeling units work for 8 hours per day on an average for 300 days in a year the normal timber requirement of the peeling length of 4 feet size in veneer units is 1500 cu.mt. The total timber requirement for the

stand alone veneer units may be assessed by calculating the equivalent number of 4 feet length machines and by taking its normal installed capacity as 1500 cu.mt. per annum.

The timber requirement of a plywood unit may be taken as 'nil' on the ground that the round timber is used as timber in the veneer units only and that the plywood units are the secondary users which use the veneer as the raw material produced by the veneer units. The plywood units use presses of various sizes such as 8x4x6, 8x4xl2, 8x4xl5, 4x4x7, 4x4x10. A 8x4xl0 capacity press can produce upto 10 plywood pieces of 8'x4' size per hour whereas a 8x4xl5 capacity press can produce upto 15 plywood pieces of 8'x4' size per hour and so on. The normative installed capacity of the plywood units will accordingly depend upon the number and the type of presses. This number and type of presses installed in each of the plywood unit may be assessed and thereafter equivalent number or presses of 8x4x10 capacity may be calculated. The normative annual timber requirement for a integrated plywood unit having a 8x4x10 capacity press may be taken as 2000 cu.mt. per annum, and accordingly the total requirement of timber for the plywood units should be calculated."

59. It could thus be seen that even as per the assessment of the IPIRTI, the timber requirement of a plywood unit is required to be taken as 'NIL' on the ground that the round timber is used as timber in the veneer units only and that the plywood units are the secondary users which use the veneer as raw material. It could thus be seen that the plywood units use presses of various sizes.

60. In pursuance of the 2016 Guidelines, the SLC was reconstituted in the State of Uttar Pradesh under the Chairmanship of Principal Chief Conservator of Forest/Head of Forest Department on 17th May 2017. Vide Notification dated 11th September 2017, the MOEFCC amended the 2016 Guidelines.

61. Subsequently, in accordance with the 2016 Guidelines, the SLC assessed the availability of timber for WBIs in the State of Uttar Pradesh, through the FSI. For assessing the availability of timber, the FSI conducted a survey and arrived at the annual potential production of timber from TOF in rural areas of all the districts of the State. FSI

assessed the annual potential production from TOF at 77.74 lakh cubic meters. Subsequent to the survey and assessment, the SLC in its meeting dated 4th May 2018 considered the matter for grant of license to various WBIs. The SLC decided to get the reassessment done by IPIRTI to determine the correct number of new licenses to be issued to WBIs under different categories against the available timber. However, subsequently, the SLC, in its meeting dated 7th September 2018, found that IPIRTI had not done any new study/assessment of the consumption of timber by various WBIs in any State/Union Territory. It was also found that the State of Haryana had adopted the timber consumption figures based on the CEC figures of 2007. It was therefore unanimously resolved by the SLC that there was no need for any fresh study/assessment for the consumption of timber by WBIs to be conducted by IPIRTI and to adopt the figures for WBIs as were referred to in the 2016 Guidelines. It further found that the CEC in its meeting dated 26th May 2010 had reduced the annual

consumption of timber of sawmills upto 10 Horse Power or less HP to 270 cubic meters from 540 cubic meters.

62. On the basis of the decision of the SLC, e-lottery was held. After following the procedure, provisional licenses were issued to 1215 successful applicants in 8 categories of WBIs in February and March 2019. After the issuance of provisional licenses, on 1st March 2019, the State Government issued a Notice with regard to grant of provisional licenses to the newly selected WBIs which came to be challenged before the learned NGT by way of filing the aforesaid Original Applications by the respondents. The learned NGT after passing various interlocutory directions finally passed the impugned order and quashed and set aside the notice dated 1st March 2019 issued by the State Government and provisional licenses given in pursuance thereof. As such we are required to examine the correctness of the decision of the learned NGT.

CONSIDERATIONS

63. The learned NGT while passing the impugned order has set aside the notice of the State of Uttar Pradesh on the following grounds:

(1) that the WBIs can be allowed to operate only after ensuring timber and raw material availability to sustain such industries and this has to be determined in actual terms and not on mere assumptions;

(2) that it is difficult to accept the stand of the State of Uttar Pradesh that there was availability of timber/raw material to sustain the new WBIs;

(3) that it is the stand of the State of Uttar Pradesh that the total potential availability of timber per year in the State of Uttar Pradesh is 80.30 lakh cubic meters, which includes 2.56 lakh cubic meters from the Government forests and 77.74 lakh cubic meters from TOF. Out of 80.30 lakh cubic meters, 71.8 lakh cubic meters were stated to be available from 22 species and 8.50 lakh

cubic meters from the other species. Out of 22 species, there are 10 species that are prohibited from felling and as such, 20.75 lakh cubic meters from these 10 species are liable to be excluded;

(4) that the major contribution is from Eucalyptus (28 lakh cubic meters) and Poplar species (15 lakh cubic meters), a total of which is 43 lakh cubic meters. Thus, the figure is not actual but presumptive;

(5) that the standard error percentage adopted by the FSI is not correct and is much higher;

(6) that the total availability of timber for consumption including that from the government forests would not be more than 40-45 lakh cubic meters per year;

(7) that the potential availability of 77.74 lakh cubic meters from TOF as given in the affidavit has been overestimated.

64. It is to be noted that after this Court allowed the licenses to be issued to the closed sawmills vide order dated 1st September 2006, the SLCs were constituted. The permissions were to be granted on the recommendations of the CEC. Vide order dated 18th May 2007, this Court had also accepted the recommendation of the CEC. Vide another order dated 30th April 2010, this Court permitted additional licenses to be granted if additional timber was available. Accordingly, licenses were granted between 2010 and 2015. Vide subsequent order dated 5th October 2015, this Court allowed the grant of license/permission to unlicensed WBIs in the country. This Court had directed the reconstitution of the SLCs for WBIs. In pursuance of the directions issued by this Court, the 2016 Guidelines were issued by the MOEFCC. As per the 2016 Guidelines, the SLC was reconstituted in the State of Uttar Pradesh on 17th May 2017.

65. One of the duties which was cast upon the SLC was to assess the availability of timber for wood based industrial

units in the State. The SLC was to assess the availability of timber by commissioning studies, preferably in collaboration with institutes/universities of repute, once in five years. In accordance with the 2016 Guidelines, the FSI conducted the survey and submitted its report in March 2018. It will be relevant to refer to the relevant part of the Foreword of the said report of the FSI.

> "In the recent past, a number of requests were received for establishment of wood based industries in the state for which the raw material would come from outside the forest areas. Since accurate assessment of TOF is needed for effective planning & management, Uttar Pradesh Forest Department requested FSI to make Agro-Climatic zone wise assessment on the basis of inventory already done during its regular course of inventory conducted in the State. As per the final report, the total stems as estimated from the study is 299.43 million with a volume of 79.40 m. cum. The total yield in the Uttar Pradesh is estimated 7.8 million cum.
>
> The report gives an assessment of the growing stock existing outside state forest reserves. The report has also indicated district-wise, species-wise and girth class-wise number of stems and

> volume in each Agro-Climatic Zone wise of inventoried districts. I am confident that this report would provide useful data for arriving at informed policy and programme interventions to give a fillip to forestry sector in the state besides providing benchmark data for tree crop in non-forest area."

66. After conducting the survey, the FSI has come to a finding that the State of Uttar Pradesh had an annual potential production of 77,74,521 cubic meters of timber. For conducting the survey, the FSI acquired satellite data for the inventoried districts of Uttar Pradesh State from National Remote Sensing Centre, Hyderabad. The entire gambit of scientific methodology was applied. The data processing was carried out independently for all the inventoried districts of Uttar Pradesh. It will be relevant to refer to the following part of the report of the FSI:

> "The data processing was carried out independently for all the inventoried districts of Uttar Pradesh. Estimates of stems per ha and volume per ha were generated according to species and diameter class for block, linear and scattered stratum under each district.

> Estimated stems and their volumes were generated according to species and diameter class by aggregating stem per hectare and volume per hectare over the entire Rural CNF Area of each stratum for each district by combining the estimated stems and volumes under block, linear and scattered stratum. By aggregating the estimates of stems and volume of all the three strata, the estimates of stems and volumes according to species and diameter class has been prepared for Rural area separately."

67. The FSI had also divided the State of Uttar Pradesh into 9 Agro-climatic zones to generate the estimate of growing stock and annual potential production. District-wise production was estimated before concluding that 77,74,521 cubic meters of timber was the annual potential production. The contention of the respondents that the rotation method was not applied is totally incorrect. It will be relevant to refer to paragraph 5.4 of the said report, which reads thus:

> "**5.4 Estimates of Annual Potential Production of Wood from TOF (Rural)**

Yield of a forest depends on several factors such as its structure, growth, density, productive capacity of site etc. The estimate of yield been generated for rural area using growing stock estimates. The Uttar Pradesh Forest Department was supplied the complete list of tree species which were found in the survey. The Uttar Pradesh Forest Department was asked to indicate tree species being used as 'timber' and 'non timber' and rotation period of specified timber species. ***The Uttar Pradesh Forest Department informed that they do not have rotation period of all species and requested Forest Survey of India to use their rotation period used for estimation of annual potential production of wood.*** The species are arranged into two groups; one containing the species having timber values and another containing rest by agro-climatic zone wise. The yield has been calculated using Von Mentel formula as given below:

Yield= 2GS/R
Where GS: Growing Stock
R: rotation period

Using the information of timber value, growing stock and rotation period in the above mentioned formulae species wise yield were calculated. The Agro-Climatic Zone wise yield has been given in Annexure-11."

[emphasis supplied]

68. The standard error was also determined by applying the appropriate scientific method.

69. The FSI, hence, considered various aspects before concluding and submitting its 101 page report.

70. It could thus be seen that the estimation as arrived at by the FSI was by applying a proper and adequate scientific method.

71. However, it is surprising that the learned NGT has brushed aside such a scientific exercise by merely observing that the figures arrived at were by estimation and not realistic.

72. The FSI has published a paper on "Trees Outside Forest Resources in India". The contributors to the said paper are (1) Dr. Subhash Ashutosh, DG, FSI; (2) Prakash Lakhchaura, DDG, FI, (3) Kamal Pandey, DD, FI; (4) Dr. Sourav Ghose, Proj. Scientist D; (5) Sushila Tripathi; and (6) H.K. Tripathi. The paper shows that the timber and panel products of TOF origin have emerged as the major

alternative to timber from forests and thus TOF have significantly obviated pressure from forests. The report shows that, the extent of TOF in the country has been assessed at 29.38 m hectare, which is around 8.94% of the total geographical area of the country. The report further shows that based on the recommendations of the National Commission on Agriculture (NCA, 1976), the Government of India launched a social forestry program in the late seventies on a large scale. The paper further shows that, these days satellite data in a wide range of spectral, spatial, radiometric and temporal resolutions are available from various Remote Sensing Agencies of several countries. It further shows that there has been a rapid advancement in the development of digital image processing software. It, therefore, observes that the desired mapping of natural resources with reasonable accuracy is possible. The report refers to the methodology of assessment of TOF in different countries of the world and refers to various authorities. It refers to different types of methodologies used for different

periods; the first one being from 1991 to 2001; the second period being from 2001 to 2016; and the third period being from 2016 onwards. The report shows that the State of Maharashtra has the highest potential annual yield of timber in India followed by the States of Uttar Pradesh and Karnataka.

73. It will be relevant to refer to the conclusion of the said paper, which is as follows:

> "**5. Conclusion**
>
> TOF play a significant role in the socio-economic lives of people both in rural and urban areas of the country by enriching the people and society at large economically as well as ecologically. The management of TOF assumes high significance in the country for realizing much higher potential which it offers in generating wood based economy and ecosystem services including carbon sequestration. Periodic assessment of TOF resources including its spatial distribution is prerequisite for its scientific management in the country. FSI is mandated with this task however there is need for continuous improvement in the methodology and inclusion of more number of variables in the assessment. The organization will have to be further strengthened

particularly in terms of man power, to address the emerging information needs on TOF. There has been regular refinement in methodologies in the last three decades to quantify TOF resources using various statistical designs and estimates with better precision. The advancement of technologies in the field of remote sensing, satellite image processing and availability of high resolution satellite data made the methodology much precise and easier. The progression of science may further refine the existing method of TOF assessment in near future.

TOF also act as an important source for timber and fuel wood to meet the demands of fast growing population of the country. There is a need to put focus on increasing the growing stock per hectare or yield of TOF by better management and planning. There is also a need for a separate policy on TOF to ensure its expansion and sustainable management for multiple ecological benefits, timber production, carbon sequestration and for obviating pressure from the natural forests.

Occupying nearly 9% of the geographical area of the country, TOF are significant natural, renewable resource which make vital contribution to the agro-ecology, socio-economy of the rural areas, environmental amelioration in the urban areas and feed wood based industries with the raw material and thus generate significant employment. TOF form a

> nearly 38% of the carbon sink in forest & tree cover of the country. TOF offers the path for achieving the national policy goal of 33% of forest & tree cover in the country. Through expansion of TOF, particularly in agro-forestry and on culturable waste lands, India can substantially increase its carbon sink to achieve its international commitments of NDC and LDN by 2030."

74. It could thus be seen that the FSI has also emphasized the need of promoting TOF. It has been observed that TOF are significant natural, renewable resources which make vital contributions to the agro-ecology, socio-economy of the rural area, and environmental amelioration in the urban area and feed WBIs with raw material and thus generate significant employment.

75. It is our considered view that, when the estimation was done by the FSI by applying the scientific method and had arrived at the conclusion based on satellite data, such a report could not have been brushed aside by the learned NGT lightly.

76. Insofar as the finding of the learned NGT that the survey also takes into consideration the prohibited trees,

the felling of which is not permissible, it will be relevant to note that the Notification dated 7th January 2020 issued by the Government of Uttar Pradesh provides that the prohibited trees shall not be felled till 31st December 2025 except under unavoidable circumstances, such as when a tree is dead or dying or it constitutes a danger to persons or property, or its felling is necessary for executing development work approved by the Government, or if the fruit bearing capacity of such tree has declined substantially. Such trees cannot be felled unless permission to fell such tree has been obtained in writing from the competent authority. The tree owners are also required to maintain 10 trees in place of each tree felled. It is thus clear that there is no absolute prohibition for felling the trees which are in the prohibited category. However, the same can be done only in exceptional circumstances.

77. It is to be noted that the prohibited trees also include trees like Mango, Jamun, etc. which are fruit bearing trees. After a particular number of years, the fruit bearing

capacity of such trees drastically reduces and as such, the farmers normally fell such trees and go in for replantation of the orchard. Apart from that, it is to be noted that the CEC itself approved the availability of timber for the State of Uttar Pradesh in its report dated 19th April 2007, which included 17.77 lakh cubic meters of prohibited trees. The said report of the CEC was approved by this Court vide its order dated 18th May 2007.

78. It is further to be noted that in pursuance of the order of the learned NGT dated 28th March 2019, a Committee of Experts [Joint Committee comprising of representative of Principal Secretary (Forest), U.P. and Principal Chief Conservator of Forest, U.P.] had submitted its report on 3rd August 2019. Not only this, but in pursuance of the directions issued by the learned NGT on 18th December 2019, another detailed affidavit was filed on behalf of the State Government on 21st January 2020, giving therein the details about the availability of timber. It was specifically stated in the said affidavit that eucalyptus and poplar are

the main species of TOF and 80% of the wood is derived therefrom. It was further pointed out that the farmers in the State of Uttar Pradesh were not getting remunerative prices and are forced to sell their produce at a very cheap rate mainly to middlemen. It was also pointed out that there would be an expected investment of about Rs.3000 crore in the State with the establishment of new WBIs. The same would employ more than 80000 people, mostly in the rural areas of the State. However, all these factors have been ignored by the learned NGT.

79. As such, the learned NGT has grossly erred in deducting the availability of timber from the prohibited trees. By now, it is more than settled that the Courts should not enter into an area that is the domain of the experts. FSI, which is undisputedly an expert body, had arrived at its estimation based on the scientific method. The learned NGT could not have sat in appeal over the opinion of the expert.

80. It is relevant to note that MOEFCC, in pursuance of the directions issued by the learned NGT had filed its opinion on 18th December 2019. It will be relevant to refer to paragraph 8 of the said opinion.

> "8. That based on the examination of available documents in light of the provisions of the Wood Based Industries (Establishment and Regulation) Rules, 2016, MoEFCC is of the opinion that the State of U.P. has followed the Wood Based Industries (Establishment and Regulation) Guidelines, 2016 (as amended in 2017) issued by MoEFCC. The availability of wood in the State has also been assessed by the SLC through FSI. The Ministry is, therefore, of the view that the SLC may approve setting up of new industries in the State if it is satisfied that sufficient timber is available legally to run the new wood based industries."

81. The learned NGT has failed to take into consideration the stand of the MOEFCC, which also supported the stand of the State that sufficient timber was available legally to run the new WBIs.

82. Insofar as the contention of the learned counsel for the respondents that, though in the meeting of the SLC dated 4th May 2018, it was decided to get the assessment done by IPIRTI, the SLC in its meeting dated 7th September 2018 did a volte-face and decided not to get the assessment done from IPIRTI, the perusal of the minutes of the meeting of the SLC dated 7th September 2018 would reveal that it was found that the IPIRTI had not done any new study/assessment of the consumption of timber by various WBIs in any State/Union Territory. It was noticed that, as per the report of the FSI, the TOF available was 77,74,522 cubic meters. Adding the timber available in the forest area of 2,57,273 cubic meters, the total quantity of availability of timber was 80,31,795 cubic meters. It is to be noted that the SLC had taken note of the letter dated 29th August 2018 issued by the Director, IPIRTI, where he had communicated that no assessment pertaining to the annual consumption of timber by Veneer and Plywood Industries was undertaken by the IPIRTI during the last two years in any State of the

country. It was found that the 2016 Guidelines itself provided for annual consumption of timber based on the report of IPIRTI. In this premise, it was found that there was no need to conduct a fresh study/assessment for the consumption of timber by WBIs by IPIRTI. It was decided to accept the figures as provided in the 2016 Guidelines.

83. It can thus be seen that the decision of the SLC for not getting the assessment done by the IPIRTI is based on sound reasons. When the 2016 Guidelines itself provided for the consumption of timber by WBIs based on the report of the IPIRTI, there was no purpose to again get the assessment done by IPIRTI. The scope of judicial review has been succinctly explained by this court in the case of ***Tata Cellular vs. Union of India***[7], which has been consistently followed in a catena of cases. This Court, in the said case, observed thus:

> "**77.** The duty of the court is to confine itself to the question of legality. Its concern should be:

[7] (1994) 6 SCC 651

1. Whether a decision-making authority exceeded its powers?
2. Committed an error of law,
3. committed a breach of the rules of natural justice,
4. reached a decision which no reasonable tribunal would have reached or,
5. abused its powers.

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(*i*) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(*ii*) Irrationality, namely, Wednesbury unreasonableness.

(*iii*) Procedural impropriety.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in *R.* v. *Secretary of State for the Home Department, ex Brind* [(1991) 1 AC 696] , Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these

> cases the test to be adopted is that the court should, "consider whether something has gone wrong of a nature and degree which requires its intervention"."

84. Applying the aforesaid principle to the present case, it cannot be said that the decision-making process has been vitiated either on account of illegality, irrationality or procedural impropriety.

85. With regard to the contention of Shri Dhruv Mehta, learned Senior Counsel, that Annexure I to the 2016 Guidelines providing the timber requirement of a plywood unit to be taken as "NIL" is contrary to the CEC recommendations is concerned, we do not find any substance in the said submission. Firstly, 2016 Guidelines have been issued by the MOEFCC in pursuance of the directions issued by this Court dated 5th October 2015. In any case, the raw material for plywood industries is 'Veneer' and the raw material for veneer is 'timber'. We find substance in the contention of the appellants that, if timber is to be considered again as a raw material for plywood,

then it will amount to showing the consumption of the same timber more than once, which is, in fact, not consumed. It is not in dispute that veneer is a raw material for plywood, which is derived from timber. The same timber is used for deriving veneer and such veneer, which is used for manufacturing plywood, cannot be counted twice. In any case, as long as the 2016 Guidelines which are issued in pursuance of the directions issued by this Court are not set aside, the contention in that regard is without substance.

86. That leads us to consider the contention of the respondents that this Court has repeatedly emphasized the principles of sustainable development, the precautionary principle and the polluter pays principle. No doubt that the protection of the environment is of utmost importance. It is the duty of this generation to protect the environment for future generations.

CONCLUSION

87. It cannot be disputed that Section 20 of the NGT Act itself directs the learned Tribunal to apply the principles of

sustainable development, the precautionary principle and the polluter pays principle. Undisputedly, it is the duty of the State as well as its citizens to safeguard the forest of the country. The resources of the present are to be preserved for the future generations. However, one principle cannot be applied in isolation of the other.

88. It is necessary that, while protecting the environment, the need for sustainable development has also to be taken into consideration and a proper balance between the two has to be struck.

89. A body having expertise in the field, i.e. the FSI, upon a scientific study, has concluded that there is sufficient timber available in the State of Uttar Pradesh. Not only that, but the respondents themselves have placed on record a project report on "Study to know the percentage and value of the raw material sourced through U.P. Forests by Plywood and Khair (Kattha) Industries in U.P.". The said report is prepared by RAK Management Consultants on the instructions of the Department of Planning, Economic and

Statistics Division, Government of Uttar Pradesh. The said report itself shows that the consultants, during the field survey, observed resentment among the plywood manufacturers against the process of issuing new licenses to the WBIs by the State Government.

90. The report further goes on to show that on average 1500-1700 trucks/tractor trollies of the eucalyptus and popular wood from all over Haryana, Punjab, Himachal Pradesh and Uttar Pradesh go to Yamuna Nagar, Haryana daily. Out of the said trucks/trollies, approximately 300-350 tractor trollies and some other small vehicles per day come from Uttar Pradesh. The report shows that approximately 5 to 6 lakh metric tons of timber per year is exported to Yamuna Nagar. The said material belongs to the western districts of Uttar Pradesh, i.e. Muzaffarnagar, Saharanpur, Shamli, Baghpat and Meerut. It is stated that there is no sufficient market for this produce in the said area. The report further finds that the western districts of Uttar Pradesh, i.e. Meerut, Muzaffarnagar, Saharanpur,

Baghpat and Shamli, etc. do not have sufficient number of plywood and veneer units and as such, they are not sufficient for the entire farmers' produce available in the said area. The report itself shows that the western districts need around 80-85 plywood and veneer units. The report goes on further to show that there is dissatisfaction among the already existing industrialists about the assessment made by the FSI.

91. It is further to be noted that the State has specifically pointed out before the learned NGT that on the establishment of WBIs, an investment of about Rs.3000 crore was likely to be attracted in the State; employment opportunities to over 80000 people will be available and the farmers of the State would get a more remunerative price. This would result in more impetus for large-scale plantation and agro-forestry. The State also emphasized that this will reduce dependence on traditional/cash crops and also reduce migration of people to urban areas. It is also emphasized that if the new WBIs are permitted, it will

reduce the import of WBIs produce. However, all these aspects have not been taken into consideration by the learned NGT.

92. It will be relevant to note that the Forest Research Institute, Dehradun, Uttarakhand has published 'Country Report of Poplars and Willows Period : 2012-2015'. The report states that the timber from poplar and willow is the backbone of vibrant plywood, board, match, paper and sports goods industries. The report further states that in tune with Indian Agroforestry Policy 2014, the plantation of poplar has been promoted. It further states that the Planning Commission of India has given special grants to certain States for the diversification of agriculture where farmers are advised to move away from paddy cultivation to sustain agricultural production. Poplar and eucalyptus are among the few trees promoted under this diversification plan. The report states that Poplar plays a significant role in rural development by generating employment for many categories of skilled, semi-skilled and unskilled workers.

93. The paper on "Trees Outside Forest Resources in India" published by the FSI, cited supra, also emphasizes that TOF are significant natural, renewable resources which make vital contributions to the agro-ecology, socio-economic improvement of the rural areas, environmental amelioration in the urban areas and feed WBIs with raw material and thus generate significant employment. 'TOF' form nearly 38% of the carbon sink in the forest and tree cover of the country. It states that TOF offers the path for achieving the national policy goal of 33% of forest and tree cover in the country. It states that through the expansion of TOF, particularly in agro-forestry and on culturable waste lands, India can substantially increase its carbon sink to achieve its international commitments of NDC and LDN by 2030.

94. As already discussed herein above, the majority of TOF is from two species, i.e. Poplar and Eucalyptus. These trees are fast growing. If a market is available for the said trees, there will be impetus to the farmers for large scale plantations. The rotation in these species is quite fast. This

will, in turn, increase the green coverage. We are of the considered view that the learned NGT has taken a lopsided view. It has failed to take into consideration the concerns expressed by the State. The learned NGT has committed patent error in ignoring the expert's report and sitting in appeal over the same. The learned NGT has also failed to take into consideration the stand taken by the MOEFCC, which supported the stand of the State. As already discussed herein above, the State had emphasized many advantages of granting new licenses to WBIs. It was also emphasized that the timber from the State of Uttar Pradesh was being exported to the State of Haryana. However, none of these aspects have been considered by the learned NGT. We are, therefore, of the considered view that the impugned orders of the learned NGT are not sustainable in law.

95. There is another reason, in our view, why the order of the learned NGT would not be sustainable. Though, on the date on which the review applications were rejected, 1215 provisional licenses were already granted and 633 units had

already been established and commenced production, the learned NGT has passed the impugned order which adversely affects their interest. Either some of such industries ought to have been impleaded in their representative capacity or a public notice should have been given so that such license holders could have represented their case. However, the said contention is lightly brushed aside by the learned NGT by holding that, since the issue is related to the general decision of the State which is applicable uniformly to all the proposed provisional licensees, it is not necessary to consider the issue raised in the impleadment applications. It is more than a settled law that the principles of natural justice are required to be followed even in administrative actions when such actions adversely affect the rights of the citizens. When the learned NGT exercised its judicial powers, it could not have ignored the principles of natural justice, which, even under Section 19(1) of the NGT Act, it is bound to follow.

96. Another aspect that needs consideration is that a serious issue was raised before the learned NGT by the appellants herein with regard to the credentials and *bonafides* of the original applicants.

97. When the matter was heard by us, we too made pertinent queries to Shri Mehta and Shri Chahar with regard to the credentials of the applicants before the learncd NGT. One applicant is Uday Education and Welfare Trust; the second applicant is Samvit Foundation and the third applicant is U.P. Timber Association. Undisputedly, the U.P. Timber Association was a litigant interested in the litigation. However, insofar as the other original applicants, i.e. Uday Education and Welfare Trust and Samvit Foundation, for whom Shri Dhruv Mehta and Shri Brijender Chahar, learned Senior Counsel are appearing, specific queries with regard to the activities undertaken by the said original applicants were made as to whether they were involved in any activity with regard to the protection of the environment; had they at least been engaged in promoting

plantation; what were the aims and objectives of the said original applicants; and what are the sources of funding, etc. Shri Mehta and Shri Chahar, learned Senior counsel, fairly submitted that apart from the fact that they (original applicants) had previously filed some public interest litigations wherein orders were passed in their favour, they had no other information.

98. Shri Dhruv Mehta, learned Senior Counsel has rightly relied on the judgment of this Court in the case of ***Ankita Sinha and Others (supra)*** to submit that the learned NGT is empowered to take suo motu cognizance. This Court has held that, taking into consideration the nature of functions of the learned NGT, it cannot be equated with other Tribunals and in environmental matters, it will also have a power to take *suo motu* cognizance. However, when the credentials and *bonafides* of a litigant approaching the learned NGT are seriously raised, the same cannot be ignored.

99. We find that before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and *bonafides* of the applicants must be tested. In the present case, there is scope to infer that the litigation could be at the behest of the existing WBIs who wanted to avoid competition and continue to get raw material at a cheaper rate. There is also scope to infer that it could be at the behest of the WBIs in the adjoining Yamuna Nagar district of Haryana where lakhs of tons of timber is exported from the State of Uttar Pradesh. There is scope to infer that it could be in the interest of middlemen who are engaged in exporting timber from Uttar Pradesh to Haryana. We would, therefore, only request the learned NGT that, when credentials and *bonafides* of such litigants are seriously raised and when entertaining the grievance of such litigants, which is likely

to adversely affect the rights of many, it should ensure the *bonafides* and credentials of such litigants.

100. Though we are allowing the appeals, setting aside the orders of the learned NGT, and upholding the action of the State Government in granting licenses, we would like to remind the State and its authorities that it is their duty to protect the environment. The State and its authorities should ensure that necessary steps are taken for arresting the problem of declining forest and tree cover. The State and its authorities should make meaningful and concerted efforts to ensure that the green cover in the State of Uttar Pradesh is not reduced and to ensure that it increases.

101. The conservation of forest plays a vital role in maintaining the ecology. It acts as processors of the water cycle and soil and also as providers of livelihoods. As such, preservation and sustainable management of forests deserve to be given due importance in formulation of policies by the State. In this regard, it will be apposite to refer to certain earlier pronouncements of this Court.

(a) In the case of ***Samatha vs. State of A.P. and Ors.***[8], a three-Judge Bench of this Court after referring to the earlier judgment in the case of ***State of H.P. and others vs. Ganesh Wood Products and others***[9] observed that, even while considering the grant of renewal of mining leases, the provisions of the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1986 would apply. This Court held that the MOEF and all the States have a duty to prevent mining operations affecting forests. It further observed that, whether mining operations are carried on within the reserved forest or other forest area, it is their duty to ensure that the industry or enterprise does not denude the forest to become a menace to human existence nor a source to destroy flora and fauna and biodiversity. It has further been held that if it becomes inevitable to disturb the existence of forests, there is a concomitant duty upon the State to

[8] *AIR 1997 SC 3297 = (1997) 8 SCC 191*
[9] (1995) 6 SCC 363

reforest and restore the green cover and to ensure adequate measures to promote, protect and improve both man-made and natural environment, flora and fauna as well as biodiversity. It further held that there can be no distinction between government forests and private forests in the matter of forest wealth of the nation and in the matter of environment and ecology.

(b) In the case of ***Essar Oil Ltd. vs. Halar Utkarsh Samiti and others***[10], this Court discussed the need for a balance between the economic and social needs and development on the one hand and environment considerations on the other. It was observed that laws on environment should be to create harmony between the two since neither one can be sacrificed at the altar of the other. In this regard, the observations of this Court in the case of ***Indian Council for Enviro-Legal***

[10] (2004) 2 SCC 392

Action vs. Union of India and others[11] were quoted as under:

> "While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment."

(c) In the case of ***Maharashtra Land Development Corporation and others vs. State of Maharashtra and another***[12] reference was made to ***Glanrock Estate Private Limited vs. State of Tamil Nadu***[13] wherein it was observed as under:

> "*27.* .... Forests in India are an important part of the environment. They constitute [a] national asset. In various judgments of this Court delivered by the Forest Bench of this Court in *T.N. Godavarman*

[11] (1996) 5 SCC 281
[12] (2011) 15 SCC 616
[13] (2010) 10 SCC 96

Thirumulpad v. *Union of India* (Writ Petition No. 202 of 1995), it has been held that 'intergenerational equity' is part of Article 21 of the Constitution.

28. What is intergenerational equity? The present generation is answerable to the next generation by giving to the next generation a good environment. We are answerable to the next generation and if deforestation takes place rampantly then intergenerational equity would stand violated.

29. The doctrine of sustainable development also forms part of Article 21 of the Constitution. The 'precautionary principle' and the 'polluter pays principle' flow from the core value in Article 21.

30. The important point to be noted is that in this case we are concerned with vesting of forests in the State. When we talk about intergenerational equity and sustainable development, we are elevating an ordinary principle of equality to the level of overarching principle."

(d) Of course, one cannot ignore one of the several dicta of this Court in ***T.N. Godavarman***

Thirumulkpad vs. Union of India and others[14] wherein this Court enunciated the definition of "forest" in the following words:

> "**4.** The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(*i*) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof..."

[14] AIR 1997 SC 1228

102. Though we find that for the sustainable development of the State and on account of the availability of the timber, sanction of granting licenses can be permitted to continue, however, as a responsible State, it needs to ensure that environmental concerns are duly attended to. We, therefore, direct the State Government to ensure that while granting permission for felling trees of the prohibited species, it should strictly ensure that the permission is granted only when the conditions specified in the Notification dated 7th January 2020 are satisfied. The State Government shall also ensure that when such permissions are granted to the applicants, the applicants scrupulously follow the mandate in the said notification of planting 10 trees against 1 and maintaining them for five years.

103. In the result, the appeals are allowed. The impugned orders passed by the learned National Green Tribunal, Principal Bench, New Delhi in Original Application Nos.313, 335 and 396 of 2019 as well as in the Review Applications are quashed and set aside.

104. Pending applications, if any, shall stand disposed of. No costs.

.....J.
[B.R. GAVAI]

.....J.
[B.V. NAGARATHNA]

NEW DELHI;
OCTOBER 21, 2022

5. Proof of Service.

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Gmail

Akshay Jagtap <akshayjagtap117@gmail.com>

PROOF OF SERVICE- REPLY TO IA 221/2026

1 message

Akshay Jagtap <akshayjagtap117@gmail.com> Tue, Jun 9, 2026 at 6:28 PM
To: collector.pune@maharashtra.gov.in, apccfcentral-ngp-mef <apccfcentral-ngp-mef@gov.in>, Pmc - Commissioner Office Ashok Shirsat <mco@punecorporation.org>, ms@mpcb.gov.in, psec.env@maharashtra.gov.in, ropune <ropune@mpcb.gov.in>, secy-moef@nic.in, Sanjiv Bajaj <sanjiv@bajajfinserv.in>, Mahesh Kunkulol <mahesh.kunkulol@bajajfinserv.in>, ngt-pune@gov.in, eekidpune@gmail.com

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PLEASE FIND ATTACHED PDF AS PROOF OF SERVICE FOR REPLY TO IA 221/2026 OF RESPONDENT NO.7.

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