

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE**

Execution Application No.16/2023 (WZ)

I.A. No.21/2024 (WZ)

Earlier E.A. No.21/2023 (PB)

In

Original Application No.119/2023 (WZ)

Earlier O.A. No.363/2015 (PB)

Dr. Sarvabhoun Bagali

... Applicant

V/s.

State of Karnataka & Ors.

... Respondents

**REPLY AFFIDAVIT BY THE PRINCIPAL SECRETARY,
ENVIRONMENT AND CLIMATE CHANGE DEPARTMENT,
GOVERNMENT OF MAHARASHTRA**

I, Pravin Darade, Principal Secretary, Environment and Climate Change Department, Government of Maharashtra do hereby state on solemn affirmation as under –

I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.

1. I have been authorised by the Chief Secretary, Government of Maharashtra, to appear on his behalf and to submit the compliance status in the present case. This Affidavit is being filed on behalf of Respondent no. 4 and 7.
2. At the outset, I tender unconditional apology on behalf of the Chief Secretary for not being able to appear through authorised counsel

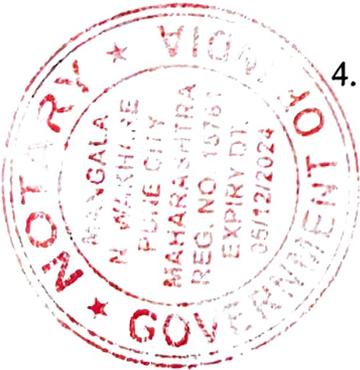
Pravin Darade

on the previous date. There was no intention to dishonour the directions issued by the Hon'ble Tribunal. We take all the orders issued by this Hon'ble Tribunal seriously and duly comply with them.

3. The present case has been filed by the applicant with the prayers, that the State of Maharashtra through Collector, Solapur – respondent No.3 be directed to deposit the remaining compensation amount of Rs.45 lakhs with interest at the rate of 10% per annum with the District Legal Services Authority (DLSA), Vijapura for payment to the families of three deceased girls, in compliance with the directions issued by this Tribunal vide order dated 25.09.2018 in Original Application No.363/2015; it is also prayed that respondent No. 5/Project Proponent – M/s K.J. Infrastructure Projects India Pvt. Ltd be penalized for non-compliance of the above directions of this Tribunal and the cost may also be directed to be paid.

4. The case was heard first on 15-09-2023, wherein in paragraph no. 5 the Hon'ble Tribunal observed –

“ Now only balance amount of Rs.45 lakhs with interest at the rate of 10% per annum remains to be deposited by respondent No.5 – Project Proponent, which has not been done and as per direction of this Tribunal, it has been upheld by the Hon'ble Apex Court that



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if the said payment is not made by respondent No.5, then the same has to be made by the State of Maharashtra and the amount so paid would be realized from respondent No.5 – Project Proponent. But we find that the State of Maharashtra has not been impleaded in the Execution Application by the Execution Applicant through Chief Secretary. Therefore, we direct the applicant to implead the State of Maharashtra through its Chief Secretary as respondent No.7 today only and file the amended memo of Execution Application on record”

5. On 01-02-2024, the Hon’ble NGT observed that as per the service affidavit dated 30.11.2023, service of notice upon respondent No.7- State of Maharashtra through its Chief Secretary is sufficient by e-mail as well as by Registered Post. But, none has appeared from their side today.
6. During the hearing, counsel for Environment and Climate Change Department appeared physically. Counsel for the applicant appeared virtually and relied on a communication addressed by the Chief Secretary Office to the Environment and Climate Change Department. Advanced copy of that communication was not provided by the applicant’s counsel to the counsel for Environment

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Department and hence he had no knowledge of the said communication.

7. Upon the applicant's counsel relying upon the said communication, counsel for Environment Department submitted to the Hon'ble NGT that he will seek instructions from the Environment Department as well as the Chief Secretary's Office, and make necessary submissions on the next date. However, Hon'ble NGT was of the opinion that since the Chief Secretary was served and service affidavit has been filed by the Applicant, someone should have remained present from their office on that date.

8. Environment Department convened a meeting on 28-02-2024 under my chairmanship, it was attended by the Member Secretary, Maharashtra Pollution Control Board, Divisional Commissioner, Pune, Pune District Collector, Solapur District Collector, Shri. Nikam, Deputy Secretary, (Revenue and Forest Department) and Director (Environment and Climate Change Department).

9. Following decisions were taken –

- District Collector, Solapur should calculate the remaining compensation amount (@ 10 % per annum) which is due and the said amount should be paid out of the amount which has been deposited by M/s. K J Infrastructure Project India Pvt. Ltd. Pune, as deposit amount during auction process.

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Similarly, if the remaining compensation amount (@ 10 % per annum) is more than the deposit amount which is to be paid by M/s. K J Infrastructure Project India Pvt. Ltd. Pune, then the said remaining amount should be paid by the State Government. Similarly, the Collector, Solapur should immediately submit a proposal to the Maharashtra Pollution Control Board to make available the funds for paying the differential amount required if any. The remaining compensation amount should be deposited with the Registrar, National Green Tribunal within eight days and it should be brought to the notice of the Hon'ble National Green Tribunal and to the State Government.

- District Collector, Pune should initiate separate action to recover the excess amount from M/s K J Infrastructure Project India Pvt. Ltd. Pune, out of the total compensation to be paid by them and submit the report to the State Government.
- Member Secretary, Maharashtra Pollution Control Board should immediately act upon the proposal submitted by the Collector, Solapur, regarding the differential amount to be paid in addition to the deposit by M/s K J Infrastructure Project India Pvt. Ltd., Pune out of the total compensation to

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be paid by them. After the recovery of RRC amount by the District Collector, Pune, the amount temporarily borrowed by the District Collector, Solapur from the Maharashtra Pollution Control Board should be returned back by collector Solapur to the Maharashtra Pollution Control Board.

10. Based on the above decisions, the District Collector Solapur have released a cheque amounting to Rs. 51,18,966/- (Rupees Fifty One Lakhs Eighteen Thousand Nine Hundred and Sixty Six). Cheque bearing no. 161085, dated 27-03-2024 issued by the State Bank of India, Solapur Treasury Branch. It has been issued in the name of District Legal Services Authority, Vijapura. The said amount contains the basic amount of Rs. 45,00,000 as well as the interest component of Rs. 6,18,966/- calculated from the order of the Hon'ble Supreme Court dated 15-11-2022.

Photocopy of the letter dated 27-03-2024 addressed by the Additional Collector, Solapur to the District Legal Services Authority, Vijapura along with the photocopy of the SBI cheque dated 27-03-2024 bearing no. 161085 is attached herewith as

Annexure 1.

11. Considering the above submissions, it is humbly submitted that, the compliance which was due on part of the Government of Maharashtra has been completed. This Respondent has complied

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with all the directions which were issued by this Hon'ble Tribunal in Original Application No.119/2023(WZ), [Earlier O.A. No.363/2015(PB)] and in the present application. Therefore, based on the above submissions, this Execution Application may be disposed of.

12. This respondent craves leave to file any additional reply as and when required. In light of the above submissions, it is respectfully prayed that this respondent shall abide by any orders and directions issued by the Hon'ble Tribunal.

Whatever is stated above is true and correct to the best of my knowledge and belief and I affirm it to be true.

Place : Pune
Date : 02/4/2024


Deponent
Pravin Darade



Principal Secretary,
Environment & CC Department,
Government of Maharashtra



VERIFICATION

I, Pravin Darade, Principal Secretary, Government of Maharashtra, having my office address at room no. 217, 2nd floor, Mantralaya, Mumbai – 400 032 do hereby verify and declare that the statements made in the aforesaid paras are true and correct to the best of my knowledge and information and I believe the same to be true and that no material is has been concealed therefrom.

Solemnly affirmed on this 02 APR 2024 day of Pune, 2024 at Mumbai.



BEFORE ME

Mangala N. Wakhare
MANGALA N. WAKHARE
SUBROGATE & NOTARY
GOVERNMENT OF INDIA

02 APR 2024

Pravin Darade

Deponent
Pravin Darade

Principal Secretary,
Environment & CC Department,
Government of Maharashtra



Collector Office Solapur

(District Mining Branch)

Address- Sat Road, Near Government Milk Dairy Solapur 413003

Telephone No. 0217-2731022, EmailID- miningofficersolapur@gmail.comS.No.Gaukh/karya 1/Cr.No. 12-22/RR⁶⁷⁶/24

Dated 27.03.2024

To,

Hon.District Legal Services Authority,
Vijayapura, District Vijayapura,
State - Karnataka

Subject - Compensation in regard to the death of three minor girls drowned in riverbed of Village Kudal Taluka Akkalkot of, Solapur in the year 2013-14

Reference - Order dated 25.09.2018 of Hon. National Green Tribunal New Delhi.

With reference to the above mentioned subject it is submitted that In year 2013-2014 auction of sand deposits in Bhima river basin was held at Village Kudal, Taluka Akkalkot Dist Solapur On 04.07.2014, three girls of Village Gubyad , Taluka Indi, District Vijayapura were drowned in the said sand auction riverbed. The names of deceased girls are 1. Ms. Bhagyashree Basraj Sutar, age 15, 2. Ms. Bhagyashree Sidram Dhule, age 14, 3. Ms. Mahananda Appasha Atanur, age 14. In view of the said incident a suit was filed by Sarvabhaum Bagli at Hon' National Green Tribunal, New Delhi, and an order on the same was passed on 25.09.2018.

In the said order, the contractor who got the sand auction, KJ Infra Ltd. Pune was ordered to

"21. Principle of resipsa loquitor applies to such a situation. M/s K.J. Infrastructure Project India Private Ltd, who is the lessee of the area where the incident took place is fully responsible and liable to pay compensation for the death of three girls.

22. Applying a thumb rule, the amount of compensation is held to be Rs. 25 lakhs for each of the three girls. The loss is assessed to be Rs. One lakh per year. Applying multiplier of 18 and taking into account the interest of conventional heads and penal factor which is attracted in such cases, the entirety of compensation is determined to be Rs. 25 lakhs in respect of each of the teenaged girls who died in the process. The total amount of Rs. 75 Lakhs may be paid on or before 31.10.2018 by M/s K.J. Infrastructure Pvt. Ltd., Pune. If the amount is not paid, as above, interest at the rate of 10% p.a. will be payable. We further direct that if the amount is not paid by the M/s K.J. Infrastructure Project India Private Ltd. within three months, the State of Maharashtra will pay the amount to the victims and recover the same from M/s K.J. Infrastructure Project India Private Ltd. with accrued interest. The amount may be deposited with the District Legal Services Authority, Vijapura for being paid to the victims, on proper identification.

23. We make it clear that the plea that the place of occurrence is in front of the area under Icase and not area of the lease cannot make any difference, for liability will be that of the mining company, in the totality of facts of the present case."

Against the said order an appeal was filed at Hon' Supreme Court Hon by the contractor and the order of the National Green Tribunal was given stay order. Therefore the said amount was not paid immediately by the contractor. However Hon Supreme Court rejected the appeal of the contractor in this case and upheld the order of Hon' NGT, by mentioning following order dated 15.11.2022.

"The interim compensation of Rs. 30 Lakhs deposited by the appellant in the Registry, pursuant to the order of this Court dated 02.05.2022, shall be transferred to the Registry of National Green Tribunal and the balance amount of compensation of Rs. 45 Lakhs be deposited with the Registry of the Tribunal within three months from today, as prayed for. The balance compensation to be deposited shall carry interest, if the appellant fails to deposit the same within three months."

Proceedings are underway with Maharashtra Government to recover the above mentioned remaining amount as revenue arrears from the contractor. But the said compensation amount has not been recovered from him yet. However, in the said case, the contractor has deposited certain amount as security deposit before signing the contract of sand excavation with Collector Office, Solapur. As per the instructions received in proceedings of meeting dated 28/2/2024 by Hon. Principle Secretary (Environment and Climate Change Department) State Government of Maharashtra it has been decided to pay the compensation amount of remaining rupees 45,00,000/- along with interest there upon from security deposit of KJ infra with this office. Accordingly, the Rs 45,00,000/- and interest from the date of the order of the Hon. Supreme Court Rs.6,18,966/- (in words Rs. six lakh eighteen thousand nine hundred and sixty six) cumulative amount of rupees Rs.51,18,966/- (in words Rs. fifty one lakh eighteen thousand nine hundred and sixty six) cheque no. 161085 dated 27.03.2024 is submitted herewith. You are kindly requested to take necessary steps to handover the said cheque to the concerned victim's family and convey to this office accordingly.



(Monika Singh)

Additional Collector, Solapur

Copy - Hon. Civil submission for information to National Green Arbitrator, Bench Pune.

भारतीय स्टेट बैंक
State Bank Of India

(03072) - SOLAPUR TREASURY BRANCH
114, SHELKE CHAMBERS, SIDHESWAR PETH, SOLAPUR
DIST: SOLAPUR, MAHARASHTRA 413001
Tel: 217-2326060 IFS Code : SBIN0003072

केवल 3 महीने के लिए वैध / VALID FOR 3 MONTHS ONLY
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District Legal Services Authority, Vijapur
रुपये RUPEES fifty one lakh eighteen thousand nine hundred sixty six only

को या उनके आदेश पर OR ORDER

अदा करें

₹ 51,89,666/-

खा. सं.
A/c No. 37665569896

VALID UPTO ₹ 50 LACS AT NON-HOME BRANCH FOR NON-CASH TRANSACTION ONLY

69896556673

CURRENT A/C

PREFIX:
0438200010

D. Verma

DISTRICT MINING OFFICER SOLAPUR

MULTI-CITY CHEQUE Payable at Par at All Branches of SBI

Please sign above

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