

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

**OA NO. 33 OF 2020 (WZ)**

Tanaji Balasaheb Gambhire

Applicant

Versus

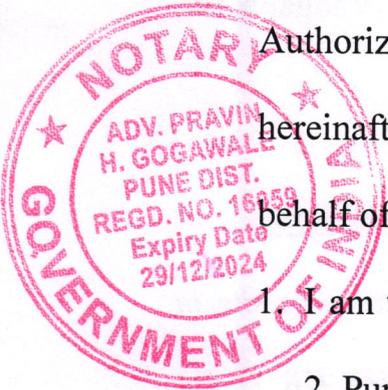
Union of India & Ors.

Respondents

**MOST RESPECTFULLY SHEWETH:**

I, Hemant More-, Age: Adult, the Executive Engineer, Building Permission Department, Zone-2, Pune Municipal Corporation, Authorized Signatory on behalf of Respondent No. 09, 10 & 11, hereinafter referred to as "PMC" do state on solemn affirmation on behalf of PMC as under:

1. I am the Executive Engineer, Building Permission Department Zone-2, Pune Municipal Corporation and Authorized Signatory on behalf of PMC. I have read the Original Application and I am acquainted with the facts hence filing the present Affidavit in Reply on behalf of PMC herein.
2. At the outset, I denied all the contentions and/or statements and/or allegations contained in the present Original Application to the extent



those are contrary to and/or inconstant with what is stated in the present Affidavit in Reply. Nothing contained in the Original Application, should be deemed to be admitted by the PMC for want of specific traverse unless the same has been specifically admitted herein below. The present Affidavit in Reply is filing to the purpose to oppose the contentions raised in the Original Application against the PMC. I crave leave of this Hon'ble Tribunal to file Additional affidavits as and when the occasion so arises.

3. It is submitted that Applicant has filed present OA relating to two independent residential projects namely, "Prayeja City-I" and "Prayeja City-II" at situated at S No. 71 (P) & 72 (P), Village Vadgaon Bk, Taluka Haveli, District Pune respectively.

**Prayers sought under the present Original Application.**

*A. Direct Respondent to demolish the illegal structures at site in question and restore the area to its original position OR Direct Respondent No. 13-PP to handover the project site including all structures to the Government Authority as the Hon'ble NGT deem fit proper for public purpose without any benefits.*

*B. Having regard to the damage to the public health, property and environment, principles of sustainable development and polluter*



*pays principles, Direct the Respondent No.13-PP to deposit a heavy amount of compensation to the environment relief fund.*

*C. Direct the Respondent No. 9-PMC to forfeit all the benefits arising from present project including FSI, TDR, DCR etc., with permanent prohibition on construction.*

*D. Direct Respondent No. 4-SEIAA and Respondent No.6 & 7-MPCB to initiate appropriate legal action including prosecution against the PP for violation of the provisions of EIA Notification, 2006 and other applicable pollution control laws.*

*E. Direct Respondent No. 8, Secretary-UDD-GOM to initiate departmental enquiry against Respondent No.11-Mr Prashant Waghmare, City Engineer for not taking any action despite notice of the environmental violation and recover the amount of damages/Fine/Cost from salary of Respondent No.11-Mr Prashant Waghmare.*

*F. Cost of this application may kindly be granted to this applicant*

*G. Pass any other just and equitable orders in the interest of justice.*

4. It is submitted that Prayeja City-I and Prayeja City-II are two different projects and hold different permissions, plinth checking certificate, side margins, front margins and recreational open spaces.

### 5. PRAYEJA CITY-I

a) Prayeja City-I is a building project developed on land bearing S No. 71/5(P), 71/6A/1 to 71/6A/13, 71/6B/1 to 71/6B/6, 71/7B, 71/9A/1, 71/3/1 to 71/3/6 Vadgoan BK and has its own open space.

b) Prayeja City - I have been constructed vide commencement certificate number DLP/1116/PLU-4/WADGOAN BK/205 dated 29/03/2017. It has its latest revision vide CC/1001/17 dated 10/07/2017 (last revision). The details of built up Area as per latest revised building plans are as below.

The FSI details sanctioned by PMC vide Commencement Certificate No. CC 1001/2017 are as follows,

| Wings | Details | No. of Tenements | FSI (sq m) | Observations     |
|-------|---------|------------------|------------|------------------|
| A     | G+5     | 126              | 3230.58    | G+5 Completed    |
| A1    | P+P+10  | 108              | 2910.68    | P+P+10 Completed |
| B     | P+9     | 73               | 2270.33    | P+9 Completed    |
| C1    | P+9     | 36               | 2223.81    | P+9 Completed    |
| C2    | P+9     | 36               | 2223.81    | P+9 Completed    |
| C3    | P+9     | 36               | 2219.85    | P+9 Completed    |
| C4    | P+11    | 43               | 2282.65    | P+11 Completed   |
| E1    | P+11    | 43               | 3637.95    | P+11 Completed   |
| E2    | P+6     | 24               | 1357.26    | P+6 Completed    |



|             |            |     |                 |                         |
|-------------|------------|-----|-----------------|-------------------------|
| D           | P+6        | 36  | 1847.94         | P+6 Completed           |
| F1          | P+STILT+6  | 56  | 3387.83         | P+STILT+6               |
| F2          | P+ STILT+6 |     |                 | P+ STILT+6<br>Completed |
| G           | G+1        |     |                 | G+1 Completed           |
| 13<br>Wings |            | 617 | <b>27857.30</b> |                         |

The Non-FSI area details sanctioned by the PMC vide Commencement Certificate CC No. 1001/17 are as below,

| Balcony | Staircase | Passage | Terrace | Lift   | Refuge<br>+Club<br>House | Parking | Total           |
|---------|-----------|---------|---------|--------|--------------------------|---------|-----------------|
| 4192.93 | 1103.57   | 2474.79 | 5345.61 | 390.07 | 400.00                   | 6929.40 | <b>20836.73</b> |

Therefore, Total BUA (FSI + Non FSI) of the Prayeja City P-I is  
(27857.30 + 20836.73) = 48,694.03 sq m.

c) 10% open space & 15% amenity space is provided as per the provision of D. C. rule.

d) The project is completed as per the sanctioned layout and building plan and completion certificates has been awarded partly for the completed buildings.

e) The FSI area of Prayeja City-I is 27,857.30 sq. m. and Non-FSI area is 20,836.73 sq. m. The Total Built Up Area (*TBUA*) (FSI + Non-FSI) is 48,694.03 sq. m. as per sanctioned by the PMC vide Commencement Certificate CC No. 1001/17 dated 10/07/2017, which is greater than 20,000 sq. m. hence its mandatory to take EC (Environment Clearance) for this project according to the EIA Notification, 2006 dated 14/09/2006.

f) Project Proponent had not submitted the EC certificate to PMC as on date hence, the WORK STOP notice is issued to the project vide outward No. Zone2/3484 dated 21/09/2019 and strictly instructed to not carry out any construction activity onsite. However, the developer has not submitted any EC in this regard to Pune Municipal Corporation as on date.

## 6. PRAYEJA CITY-II

a) Prayeja City-II is developed on land bearing S. No. 71(PT) and 72/20A to 27A Vadgoan BK.

b) Prayeja City-II has been constructed vide commencement certificate number CC 2107/2015 dated 08/10/2015 (final revision).

The details of BUA as per last revision are as below:-



| Wings | Details    | No. of Tenements | FSI (sq m)     | Observations            |
|-------|------------|------------------|----------------|-------------------------|
| H     | B1+B2+G+11 | 108              | 5245.35        | B1+B2+G+11<br>Completed |
| G1    | B+B2+G+9   | 36               | 2223.81        | Not Constructed         |
| G2    | B+B2+G+9   | 36               | 2223.81        | Not Constructed         |
| Total | 3 Wings    | 180              | <b>9692.97</b> |                         |

The Non-FSI area details sanctioned by the PMC vide Commencement Certificate CC 2107/15 dated 08/10/2015 are as below,

| Balcony | Staircase | Passage | Terrace | Lift   | Refuge + Club House | Parking | Total          |
|---------|-----------|---------|---------|--------|---------------------|---------|----------------|
| 1254.56 | 290.05    | 1181.93 | 1675.59 | 119.11 | 200.00              | 4047    | <b>8768.24</b> |

Therefore, Total BUA (FSI + Non FSI) of the Prayaja City P-II is (9692.97 + 8768.24) = 18461.21 sq m.

c) 10% open space and 15% amenity pace is provided as per the provisions of D.C. Rules.

d) The TBUA (FSI + Non-FSI) is 18,461.21 sq m as per sanctioned layout by PMC vide Commencement Certificate No. CC 2107/2015

dated 08/10/2015. This area being less than 20,000 sq m, hence EC certificate was not made mandatory for carrying out for Prayeja City-II according to EIA Notification, 2006 dated 14/09/2006.



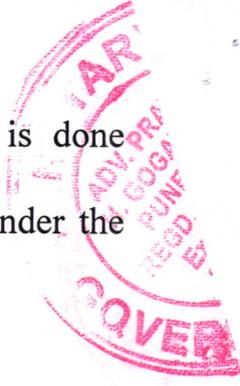
7. It is submitted that Sections 14 of the National Green Tribunal Act, 2010 provides limitation for 6 months from the date when the cause of action first arose with in which the OA (Original Application) ought to have filed. It is submitted that vide Commencement Certificate No. DPO/II/1038/PLU4/WBk/227 dated 06/09/2007, Prayeja City-I project was sanctioned. Therefore u/sec 14 of NGT Act, limitation period for filing the present OA expired on 06/03/2008.
8. It is submitted that Sections 15 of the National Green Tribunal Act, 2010, provides limitation for a period of 05 years from the date of cause of action arose, which too would expire in the year 2012, while the present OA is filed on 02/07/2020.
9. Hence as per Sec. 14 and 15 NGT Act, Limitation period, to raise dispute relating to the Prayeja City-I project, already expired so the present matter is hopelessly barred on the ground of Limitation.
10. Vide CC 1446/2013 dated 03/08/2013, Prayeja City-II project sanctioned on Plot-II being S No. 71(PT) to 27A Vadgoan BK,

however the said project is of below 20,000 sq m of Total Built Up Area (TBUA) hence doesn't require EC.

11. Environment Department, Government of Maharashtra also mentioned in their letter No. Comp-2019/CR-23/SEIAA dated 16/11/2019 that, "Prayeja City-I and Prayeja City-II are two different projects and Prayeja City-II is liable to be excluded from getting environmental clearance as per the provision of the Environment (P) Act."
12. It is submitted that after scrutinizing the papers, reports relating to the said Prayeja City-I and Prayeja City-II Projects, and after taken a note of various violations and especially one that not obtained the EC under EIA Notification, 2006, PMC vide Notice dated 21/09/2019 asked the Project Proponent (PP) to Stop Work of "Prayeja City -I" and "Prayeja City -II" projects.

It is relevant to be noted that in addition to the default in obtaining the EC, there are some more violations has been committed by the Project Proponent, viz.

- a. Tree plantation behind the F1 and F2 buildings inside the 7.50 m space, trees appeared nearer to the construction hence it causes hurdle to the passing of vehicle.

- 
- b. Construction of 2.5 m high safety compound wall is done behind F1 and F2 buildings, which is not approved under the granted CC.
  - c. Pump room built near the F1 and F2 Wings, at the place where ramp required to be constructed.
  - d. Illegal Construction of Society Office.
  - e. Relocation of water Tank.

It is pertinent to be noted herein that vide Stop Work notice dated 21/09/2019 PMC has already taken an action against the Project Proponent (PP) for violating the provisions under EIA Notification, 2006. The said stop work notice has taken a due note of the said violations as well.

13. It is pertinent to be noted that after serving of Stop Work Notice dated 21/09/2019, PMC has not granted Occupation Certificate to any unit in the Prayeja City-I project. PMC has also communicated that unless the due compliance relating to the EIA Notification, 2006 and other terms and conditions described under the CC/building permissions has not been made, no proposal for any further permissions,

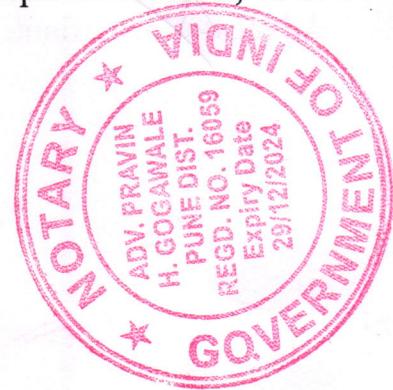
improved/revised plans or for Occupation Certificate relating to the Prayeja City-I project will be considered.

14. Therefore, it is submitted that Pune Municipal Corporation has not violated any provision under law on the contrary always followed the due procedure, functioned in accordance with law hence it is requested before this Hon'ble Tribunal that no any adverse order may be passed against the PMC.

Pune

Date: 02/01/2023

कार्यकारी अभियंता  
बांधकाम विकास विभाग झोन क्र. १  
पुणे महानगरपालिका  
Respondent No. 9, 10 & 11



BEFORE ME  
ADV. PRAVIN H. GOGAWALE  
NOTARY GOVT. OF INDIA  
PUNE  
REGD. NO. 16059  
02 JAN 2023

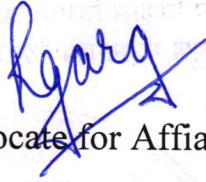
**VERIFICATION**

I, Hemant More, Executive Engineer, Age Adult, Bldg. Permission Department Zone-2, Pune Municipal Corporation, Pune, do hereby verify that the contents of running paragraphs are true to my knowledge/based on records of the maintained in the ordinary course of business.

Solemnly Affirmed

Pune

Date: 02<sup>nd</sup> day of January, 2023.

  
Advocate for Affiant.

  
कार्यकारी अभियंता  
बांधकाम विकास विभाग झोन क्र. २  
पुणे महानगरपालिका

Affiant (For Respondent 9, 10 & 11)



**BEFORE ME**

  
ADV. PRAVIN H. GOGAWALE  
NOTARY GOVT. OF INDIA  
PUNE  
REGD.NO.16059

**02 JAN 2023**