

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

I.A. NO. 293 OF 2025

IN

ORIGINAL APPLICATION NO. 235 OF 2025

J. Kumar Infraprojects Ltd.

... Applicants

(Original Respondent No. 7)

IN THE MATTER OF:

Vanashakti & Anr.

... Applicants

Versus

State of Maharashtra & Ors.

... Respondents

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Date: 18th August 2025

ZAMAN ALI

Advocate for Original Applicants

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AFFIDAVIT IN REPLY BY THE ORIGINAL APPLICANTS TO

I.A. NO. 293 OF 2025

I, Mr. Stalin Dayanand, aged about 60 years, Original Applicant No. 2
abovenamed as well as authorized representative of Original Applicant No. 1
abovenamed, having its office at Nandakumar Pawar House, Opp. Shri Jagannath



Darshan Building, M.D. Kini Marg, Bhandup Village (East), Mumbai – 400 042,
do hereby solemnly resolve and state as follows:

1. The present Affidavit in Reply (“**Reply**”) is being filed collectively on behalf of the Original Applicants of O.A. No. 235 of 2025 (“**OA**”), in response to the present I.A. No. 293 of 2025 filed by the original Respondent Nos. 7 to 11 of the OA (“**Original Private Respondents**”) seeking to vacate the directions of this Hon’ble Tribunal recorded in order dated 18th June 2025 in the OA.
2. The Original Private Respondents have showed no cause for the directions in the Order dated 18th June 2025 to be vacated. They have not annexed to the present IA, or to their reply to the OA, a single official permission by the MPCB, the ESZ Monitoring Committee of SGNP, or any other authority under the Air (Prevention and Control of Pollution) Act 1981, the Water (Prevention and Control of Pollution) Act 1974, or the ESZ Notification dated 5th December 2016 (“**2016 ESZ Notification**”). Pertinently, although the Original Private Respondents, in their reply to the OA claim that permission has been obtained from ESZ Committee, there is no proof of this, and the statement itself was recanted by their counsel as erroneous, as recorded in this Hon’ble Tribunal’s order dated 1st August 2025. Further, the Original Private Respondents have admitted vide this



present IA that they are operating a casting yard within the confines of ESZ of the SGNP, which is itself illegal, given its polluting nature. Although they deny that there is a functional RMC Plant operated by them within the ESZ area, the Affidavit dated 17th June 2025 filed by Original Respondent No. 2 in the OA ("**Respondent No. 2's Affidavit**") shows clear proof of the same. Vacating the directions which asks them not to operate this RMC Plant will allow the Original Private Respondents to continue their polluting activities and lead to irreparable damage to the environment.

3. The Original Private Respondents in the present IA have alleged that the Order dated 18th June 2025 was passed in their absence and therefore breaches their rights. However, I state that the Original Private Respondents have consistently used dilatory tactics to prevent the OA from being heard in a timely manner, so as to allow their illegal activities to go unchecked, and their absence on 18th June 2025 was part of the same strategy. At the very first instance when their counsel appeared in the proceedings for the OA, they asked for six weeks to file a Vakalatnama and a reply to the OA as recorded in this Tribunal's order dated 7th March 2025. Post that, even though the matter was listed only 12 weeks later, they still had not filed their reply and sought an extension of two weeks, as recorded in this Hon'ble Tribunal's order dated 11th June 2025. Although this was granted, this Hon'ble Tribunal also listed the OA on 18th June 2025, at



which time the counsel for the Original Private Respondents failed to appear, despite having notice of the same. Pertinently, even after the grant of a two-week extension, the Original Private Respondents only filed their reply on 25th July 2025, almost a whole month after the two-week extension expired, and more than 4.5 months since the original order dated 7th March 2025 where they were granted 4 weeks to do the same.

4. Further, I state that the Original Private Respondents are falsely claiming that the Order dated 18th June 2025 was passed only on the basis of Respondent No. 2's Affidavit. This is completely incorrect. The Original Applicants had prayed for interim relief in the OA and had been consistently pushing for the same, even before Respondent No. 2's Affidavit was filed. This Hon'ble Tribunal, in order to grant interim relief to the Original Applicants, only needed to be satisfied of their *prima facie* case and that on the balance of probabilities, it would be prudent to grant the said relief. The Original Applicants satisfied the Hon'ble Tribunal of the same, not only on the basis of their submissions on 18th June 2025, but through their OA, all the evidence annexed therewith, and their counsel's submissions at each hearing leading up to the hearing on 18th June 2025.
5. In any event, the Original Private Respondents' absence on 18th June 2025 was due to their own intention to further delay hearing of the OA. The



Original Private Respondents have claimed in the present IA that they were absent because the hearing on the 18th June 2025 was for a specific, limited purpose. Nothing in the order dated 11th June 2025 indicated that all parties were not required to be present for the next hearing, or that the Hon'ble Tribunal would not issue any orders on such a date. The mere fact that instructions were given to be complied with by the next date does not mean that the purpose of the next date is thus limited.

6. Outside of the considerations regarding the Original Private Respondents' conduct, the Order dated 18th June 2025 must not be vacated because doing so will cause irreparable environmental damage to the ESZ of the SGNP. The law is clear on the fact that casting yards and RMC plants are both industrial operations which cause pollution and are thus not permitted in the ESZ region based on the ESZ Notification dated 5th December 2016. The fact that the work is allegedly being undertaken for an important public project in Mumbai has no bearing on the fact that both the MPCB and the ESZ Monitoring Committee have refused to grant permissions to the Original Private Respondents.

7. The Original Private Respondents also claim that they are not operating any RMC plant in the ESZ area and hence the Order dated 18th June 2025 only has a reputational impact on their business. The Original Applicants



do not accept this and reiterate that there is proof, both in the OA and in Respondent No. 2's Affidavit, not only of casting yard work but also of an operation RMC plant. Regardless, if the Original Private Respondents' argument is accepted, then on a balance of probabilities, any minor reputational harm caused to them is outweighed by the environmental benefit of preventing polluting industries in the ESZ area.

8. Further, I state that the Order dated 18th June 2025 in its current form is in fact not adequate, and must be expanded to include all the illegal activities conducted by the Original Private Respondents, and not just the RMC Plant. The Original Applicants have filed a separate interim application praying for application of the directions dated 18th June 2025 on all activities

9. The Original Private Respondents, in their reply to the OA, have contended that the Original Applicants have filed the OA outside the six-month limitation period. I state that the law has been settled by the Apex Court on the fact that for a recurring cause of action, the limitation period starts afresh for every new instance of the cause of action arising. In the present case, every instance of operating the casting yard and the RMC plant in the ESZ area of SGNP gives rise to a fresh cause of action under the 2016 ESZ



Notification. Considering the ongoing nature of the illegal work carried out by the Original Private Respondents, the OA is filed well within limitation.

10. Further, the Original Private Respondents have also alleged that the Original Applicants lack *locus standi* under Section 18 of the National Green Tribunal Act, 2018 ("**the Act**") and do not qualify as a "person aggrieved" under it due to not having suffered any direct or personal loss or prejudice. I state that this Tribunal has held, multiple times, that Section 18 of the Act must be read with Sections 14 and 15 of the Act such that any person, who finds that there is violation of environmental laws causing damage to environment can claim to have sufficient interest in the subject and would be an "aggrieved person" competent to initiate proceedings before this Hon'ble Tribunal under Section 14, and that no personal injury to such person is necessary. The Original Applicants, being actively involved in pursuing several environmental causes in interest of the public in Maharashtra, squarely fall under the scope of Section 14 and Section 18 of the Act and have *locus standi* to file the OA.

11. Without prejudice to the foregoing, I shall now respond para-wise to the

Interim Application filed by the Original Private Respondents:

- a. The contents of Paragraphs 1 to 4 are on matters of record and as such do not warrant a response.



- b. For Paragraphs 5 to 7, the contents are admitted as far as the directions given to the Original Respondent No. 2 and the extension given to Original Respondent No. 7 to file an affidavit in reply are concerned. The rest of the contents are denied in toto. The Original Applicants did not fail to take permission from this Hon'ble Tribunal for service by way of paper publication, but were only acting proactively by publishing it in advance so as to give the Original Respondent Nos. 12 to 21 adequate notice. The Original Applicants were pleased to serve the publication notice once again, per the directions of this Hon'ble Tribunal. Further, it is completely incorrect to state that the hearing on 18th June 2025 was for a limited purpose. This Tribunal's Order dated 11th June 2025 does not state or imply that the hearing was *exclusively* for the Original Applicants to submit their affidavit regarding publication service. It is not incumbent upon the Original Private Respondents to assume that the purpose of a hearing is limited and then choose not to attend it, in the hope of continuing to delay the hearing of the OA. The Applicant had pressed for interim relief in the OA and it is up to the discretion of this Hon'ble Tribunal to grant such relief at any hearing.
- c. The contents of Paragraph 8 are on matters of record and as such do not warrant a response.



- d. The contents of Paragraph 9 are accepted as far as they are matters of record. However, it is categorically denied that the Original Applicants' submissions were made in reliance on Respondent No. 2's Affidavit. As has been stated previously, the concerned affidavit only restated what the Original Applicants had already stated in the OA and the submissions made were for the interim reliefs prayed for in the OA as well.
- e. The contents of Paragraph 10 are denied in toto. The Original Applicants made a *prima facie* case for interim relief and as such, the Original Private Respondents need not have been given an opportunity to file a rejoinder affidavit.
- f. The contents of Paragraphs 11, 12 and 13 are denied in toto. The Original Private Respondents were given a fair opportunity to make submissions against the interim reliefs sought by the Original Applicants. However, they did not press any submissions, delayed their filings, and then remained absent for a hearing, all to delay the proceedings. They cannot at this stage claim that any unfairness was meted out to them. Even in the present Interim Application, the Original Private Respondents have failed to provide any substantial evidence of having obtained the requisite permissions under the 2016 ESZ Notification or the Air (Prevention and Control of Pollution) Act 1981, the Water (Prevention and Control of Pollution)



Act 1974 and have not provided any substantial grounds for vacating the Order dated 18th June 2025.

- g. The contents of Paragraph 14 contain serious and unfounded allegations which are denied in toto. Although the Original Applicants were served with a copy of Respondent No. 2's Affidavit in Reply only an evening in advance, that too around 6 PM, the submissions were based on the evidence presented in the OA, as well as orally presented by Respondent No. 2 in the hearing itself, when questions were posed by this Hon'ble Tribunal. That by way of such averments, the R-7 has conveniently taken upon itself to presume what transpired in the hearing before this Tribunal, while choosing to making an appearance before this Tribunal at its own whims.
- h. The contents of Paragraph 15 concern dealings between Original Respondent Nos. 2 and 7 and are not relevant to the Original Applicants. However, they do not serve as grounds for vacating the Order dated 18th June 2025.
- i. The contents of Paragraph 16 and 17 are denied in toto and only seek to reiterate the contents of the previous paragraphs. The contents of Paragraphs 11 (f) and 11 (g) above are reiterated here to avoid repetition.
- j. The contents of Paragraph 18 are denied so far as concerning the RMC Plant's lack of operation. Respondent No. 2's Affidavit clearly



states that they found proof of such a plant being operational in January 2025. Further, as has been reiterated multiple times, a casting yard is also a polluting activity for the application of the 2016 ESZ Notification dated and the fact that the project is of public importance does not override the requirement to obtain permissions.

- k. The contents of Paragraph 19 are denied in toto. Respondent No. 2's Affidavit makes it clear that the observations recorded therein are based on site visits conducted by their inspection committee.
- l. The contents of Paragraphs 20, 21, 22 and 23 are denied in toto. The Original Private Respondents' right to file a reply to the OA were not affected by the Order dated 18th June 2025. As stated previously, it is not incumbent upon the Original Private Respondents to assume that the purpose of a hearing is limited and then choose not to attend it, in the hope of continuing to delay hearing of the OA and then claim unfairness and breach of natural justice. The Applicant had pressed for interim relief in the OA and if this Hon'ble Tribunal is convinced that there is a *prima facie* case for interim relief, it is up to the discretion of this Hon'ble Tribunal to grant such relief at any hearing, even before a comprehensive reply is filed by any parties.
- m. The contents of Paragraph 24 and 25 are denied in toto. The Original Applicants have no knowledge of whether certain documents have been served upon the Original Private Respondents or not and it is



not their prerogative to keep track of the same. The Original Applicants have not taken advantage of anything and have simply pressed for the interim reliefs in the OA and cannot be blamed for the Original Private Respondents' wilful absence.

n. The contents of Paragraphs 27 to 30 are irrelevant, both for the Original Applicants, and for this Hon'ble Tribunal. It is not this Hon'ble Tribunal's prerogative to protect the reputation of the Original private Respondents, especially in light of evidence of their illegal activities and their continued dilatory tactics. The Order dated 18th June 2025 was passed fairly and with regard to due procedure. Further, if the Original Private Respondents insist that there is no RMC Plant in operation, they are suffering no real prejudice, and any potential reputational harm cannot outweigh environmental concerns.

o. The contents of Paragraphs 31 and 32 are denied in toto. The Order dated 18th June 2025 is a fair and procedurally sound order that stems from factual evidence and protects the environmental interest of the public from the Original Private Respondents' illegal activities and dilatory tactics.

12. In view of the foregoing, I pray that this Hon'ble Tribunal may be pleased to dismiss the present Interim Application.





Advocate for the Applicants



Applicant No. 1



Applicant No. 2

VERIFICATION

I, Stalin Dayanand, aged 59 years, Indian, Original Applicant No. 2 and authorised representative of Original Applicant No. 1 having its office at Nandakumar Pawar House, opposite Shri Jagannath Darshan Building, M.D. Kini Marg, Bhandup Village (East), Mumbai - 400042, do hereby state and solemnly declare that what is stated in the foregoing paragraphs of this Affidavit is true to my own knowledge, information and beliefs and/or based on legal advice which I believe to be true.

Solemnly declare at Mumbai)

On this 18th day of August 2025)



Applicant No. 2

Identified by me,

Advocate for the Applicants

BEFORE ME

Dhange

Adv. S. N. Dhange

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NOTED & REGISTERED
Page No. 148 Sr. No. 1445
Date 18 AUG 2025

