

HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 36/2024 (WZ)

Irba Mashnaji Konapure & Anr. Applicants

VERSUS

Union of India through MoEF&CC Respondents

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**WRITTEN ARGUMENTS AND SUMMARY
BY RESPONDENT NO. 10 - M/s J K DEVELOPERS**

MOST RESPECTFULLY SUBMITTED

Respondent No. 10 have reviewed all the provided documents, including the Joint Committee Report and various submission made by the other respondents along with the annexures, points of the application and affidavits by Applicant. Based on this information I am filing this written submission;

I. Summary of the Application (OA No. 36/2024 (WZ))

Applicants:

1. Mr. Irba Mashnaji Konapure
2. Mr. Sayyed Mohammed Sabir Usman

Respondents:

1. Union of India (Through Secretary-MoEFCC)
2. Central Ground Water Authority (Through Member Secretary)
3. State Level Environment Impact Assessment Authority-Maharashtra (SEIAA) (Through Member Secretary)
4. Maharashtra Pollution Control Board (Through Member Secretary)
5. Maharashtra Pollution Control Board (Through Regional Office)
6. Mira Bhayander Municipal Corporation (MBMC) (Through Municipal Commissioner-MBMC)
7. Mira Bhayander Municipal Corporation (MBMC) (Through Assistant Director Town Planning-MBMC)
8. The Collector of Thane
9. JK Developers F.G.H. Co-Operative Housing Society Ltd.
10. M/s. JK Developers (Project Proponent, PP) (Through its Proprietor: Shri. Ravikumar Alias Jeetendra Amarnath Kapoor)

Subject Matter: An application seeking restoration and restitution and relief against alleged gross intentional violations of various environmental and pollution control

enactments causing damage to the environment and ecology due to illegal construction by Respondent No. 10 (M/s. JK Developers) in their residential and commercial building project "IRIS," in violation of Environmental Clearances (ECs), Consent to Establish (CTEs), and Consent to Operate (CTOs).

Key Facts & Allegations by Applicants:

- The project "IRIS" is located at Survey No. 21/1, 24/1(P), & New S. No. 24/2, 20/6(P), 20/7(P), Village-Ghodbandar, District-Thane, Maharashtra, within the jurisdiction of Mira-Bhayandar Municipal Corporation (MBMC).
- **Illegal Excess Construction:** Respondent No. 10 allegedly carried out illegal excess construction of 26058.27 m² against the permissible Built-Up Area (BUA) of 45221.18 m² as per EC dated 14.02.2019, and further undertaken expansion. The total proposed BUA as per MBMC sanction plan dated 21.05.2021 is 78712.51 m².
- **Lack of Prior Consent to Establish (CTE) & Gaps:**
 - No CTE from 07.10.2014 till 25.01.2019 (a gap of 1843 days), with an ex-post facto CTE obtained on 25.01.2019.
 - No CTE for expanded area from 14.09.2022 to 25.12.2022 (a gap of 103 days), with an ex-post facto CTE obtained on 26.12.2022.
- **No Revalidation of Consent to Operate (CTO) & Gaps:**
 - CTO dated 02.07.2021 was valid till 30.04.2023, and revalidation was obtained on 14.01.2024, resulting in a gap of 258 days.

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- **MPCB's Alleged Negligence:** MPCB allegedly neglected to impose and recover Environmental Damage Compensation (EDC) and penalties for the gaps in obtaining CTE and revalidation of CTO.
 - Calculated EDC for gaps in CTE: Rs. 145,950,000/-
 - Calculated EDC for gaps in CTO: Rs. 19,350,000/-
 - Calculated Penalty for CTE violation: Rs. 25,164,712.33/-
- **Illegal Construction of Basement:** The construction of the basement was not appraised or assessed by SEAC-II and SEIAA for the initial EC dated 07.10.2014, yet it was included in the EC.
- **Unscientific STP Installation and Non-operation:** STP is allegedly installed in the basement parking area without proper ventilation, and it is not in operation, nor is it connected online to MPCB for monitoring. Applicants claim capacity changes and non-operation of STP for five years from occupancy.
- **No Tree Plantation on Virgin Land:** Mandated tree plantation (229 trees as per EC dated 14.02.2019, and an additional 510 trees as per EC dated 13.09.2022) is not done on virgin land, with some trees planted on the basement area, which is considered unscientific.
- **Mandatory RG Area/Open Space Not Provided on Virgin Land:** The PP allegedly failed to provide mandatory RG Area/Open Space on the virgin land to the tune of 3143.21 M² on ground in addition to the RG above Basement: 1885.93 M². MBMC sanction dated 21.05.2021 shows 1513.20 M² RG Area provided on ground, a deficiency of 3004.59 M².

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- Calculated Compensation for Deficient RG Area: Rs. 83,227,143/-

- **Other Allegations:**

- No installation of Rain Water Harvesting (RWH) system as per the latest EC dated 13.09.2022.
- No installation of Solar Energy System as per EC conditions.
- Illegal ground water extraction through 3 borewells, for domestic use and construction.
- No installation of OWC, solid waste segregation and handling system; solid waste is directly given/dumped to MBMC dump yard.
- Damage to natural water course by narrowing and changing its course.
- Lack of adequate fire tender movement of 7.5 Mtrs.
- Basement slope not provided in the ratio of 1:10.
- No ground water test and soil contamination test.
- No soil preservation for RG area development.
- Non-submission of six-monthly compliance reports and annual returns.
- Non-submission of Environmental Statement.
- MBMC failed to stop illegal construction despite notice.

Total Damages Sought: Rs. 840,172,586.86/- (approximately Rs. 84.02 Crores).

Prayers:

- Allow the Original Application.

- Direct respondents to demolish illegal excess construction or hand it over to the government for public welfare without benefits to PP.
- Direct Respondent No. 10-PP to deposit a heavy amount of compensation to the environment relief fund for illegal excess construction.
- Direct Respondent No. 10-PP to provide RG Area/Open Space on virgin land as per EC, MBMC Sanction & DCR, whichever is higher, and deposit heavy environmental compensation for not providing mandatory RG Area/Open Space on virgin land and not carrying out tree plantation/replantation/tree felling on virgin land.
- Direct Respondent No. 10-PP to carry out the plantation of more than 2290 indigenous trees/samplings on its own land within MBMC jurisdiction with geo-tagging for scientific growing and protection for the next 10 years.
- Direct respondents for restitution of the area by undertaking remedial & mitigation measures by complying with EC, CTE & CTO conditions for environmental infrastructure.
- Direct Respondent No. 3-SEIAA, Respondent No. 4-MS-MPCB & Respondent No. 6-Commissioner MBMC to take action against their officials for allowing illegal construction and not taking action despite notice.
- Grant cost of the application to the applicants.
- Grant any other just and equitable reliefs in the interest of environmental justice.

II. Reply Affidavits

A. **Affidavit by Respondent No. 10 (M/s. JK Developers)**

Deponent: Umesh Ray, Project Manager with M/s JK Developers (Respondent No. 10).

Key Submissions & Contentions:

- **Denial of Allegations:** Denies all allegations as bald, vague, without evidence, and incorrect.
- **Valid Permissions:**
 - Possesses valid EC (Expansion) for total BUA of 97,373.47 m² (FSI: 53,855.05 m² & Non-FSI: 43,518.42 m²).
 - Has valid 'Consent to Establish' from MPCB dated 25.01.2019 under ORANGE category for total plot area of 19946 m² and total construction built-up area of 79522.36 m².
 - Has valid 'Consent to Operate' from MPCB dated 14.01.2024, valid up to 30.04.2026, with penal charges of Rs. 3,19,425/- paid.
 - Obtained Completion Certificates for IRIS F, G, H wings (06.08.2021) and C, D, E wings (22.02.2023).
 - Construction is complete, and application for final 'Occupancy Certificate' is pending with MBMC.
- **Joint Committee Report (JCR) - Dispute on EDC Calculation:**
 - Accepts factual findings but disputes the JCR's conclusion or adjudication on 'Environmental Damage Compensation' (EDC) and penal fees.

- Argues that the CPCB formula for EDC (from OA 593/2017) is insensitive to the facts of this case (type/quantum of pollution, damage).
- States that parameters like STP capacity, treated sewage recirculation (30% recirculated, 66% discharged to municipal sewer, not river), and discharge to formal sewerage were not considered in the formula.
- Highlights that CPCB's subsequent guidelines (December 2022) for imposing EDC should have been considered.
- Asserts that the STP was operative, and samples were not collected as per statutory procedures (Water Act s. 21, EPA 1986 Rules 6 to 11), making results inadmissible.
- **Limitation Period for Penal Fees:**
 - Contends that MPCB already regularized consent (25.01.2019).
 - The OA was filed on 06.02.2024, and nothing beyond 5 years (i.e., before 06.02.2019) can be entertained by NGT due to limitation.
 - Argues that MPCB has no statutory power to impose penalties for past periods under Water Act 1974 or Air Act 1981.
 - Claims MPCB's circulars on penal fees (e.g., dated 12.07.2022) are ultra vires and without lawful authority or government approval.
 - Refers to MPCB's own 'Enforcement Policy' (01.03.2016) which mentions a Bank Guarantee (BG) regime, and a BG was indeed taken, implying no double jeopardy.

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- States that penal charges are for "paper delay" during construction, not actual pollution, and fall outside the 5-year limitation.
- **Alleged Violations & PP's Rebuttal:**
 - **Not obtaining CTE:** Acknowledges the period from 03.07.2014 to 25.01.2019 (1668 days) but states it's a procedural violation, with no treated or untreated sewage generated during the construction phase until 02.07.2021.
 - **Air Pollution (Dust):** In the pre-construction stage, it's mainly air pollution due to dust (PM) emissions, not water pollution or solid waste, so the water pollution-based EDC formula is inapplicable for that period.
 - **STP & OWC:** Claims STP of 450 KLD and OWC of 350 Kg/day were provided and are operational. STP is fully functional, causing no pollution.
 - **Borewell/Groundwater:** States "No" to borewell use in project summary.
 - **RG Area:** States RG area of 3143 m² required, and that providing it above basement slab is no scientific.
 - **Trees:** 229 trees required (RG 220 + Miyawaki 510).
- **Refusal of Consent (2013):** MPCB's refusal of consent in 2013 was due to "not submitting the approved plan from planning authority and NOC from local body," not environmental shortcomings or pollution.
- **Compliance with JCR Observations:** Claims compliance with all observations of the JCR, including STP repair, appointment of qualified staff, flowmeters, and OWC operation.

- **Occupier's Responsibility:** Argues that once the society is formed, the "occupier" (as defined in Water and Air Acts) is responsible for consent and compliance, and the application for change of name in Consent to Operate shall be moved by the Society.
- **Proper Computation of EDC:** EDC should be based on identifying and quantifying actual pollution and cost of restoration, not merely imposing a penalty. Penalty provisions are under EP Act s. 15 and require specific procedures.

B. Affidavit by Respondent No. 5 (MPCB - Maharashtra Pollution Control Board)

Key Submissions & Supporting Statements to R-10:

- **Compliance with NGT Order:** Affidavit filed in compliance with NGT order dated 25.09.2024.
- **Joint Committee Report (JCR):** States that a Joint Committee submitted its report via email dated 26.07.2024 in compliance with the NGT order dated 13.02.2024.
- **Consent to Operate History:**
 - Granted 1st Consent to Operate (Part-I) dated 02.07.2021 (valid up to 30.04.2023).
 - Renewed vide Consent to Operate (Part-II) dated 14.01.2024 (valid up to 30.04.2026).
 - Granted 1st Consent to Operate (Part-III) dated 22.06.2024 for "Red" category, valid up to 30.04.2028.
- **Site Visit Observations (10.12.2024):**
 - Project Proponent (PP) provided underground Sewage Treatment Plants (STPs) of 250 CMD and 450 CMD with MBBR technology. Treated water is used for flushing and

gardening, with the remainder discharged into the municipal sewer.

- PP installed an Organic Waste Converter (OWC) of 500 kg/day capacity, and it was found in operation. Converted waste is used as manure.
- Bank Guarantees (BGs) of Rs. 10 Lakh and Rs. 2 Lakh were submitted and are valid up to 2027.
- PP obtained Consent to Operate (Part-I, II, III). Occupancy observed in all buildings **except Building No. K, for which an application has been made.**
- **STP Outlet Sample Analysis:** Samples collected from the STP outlets on 10.12.2024 show parameters within limits.

C. Joint Committee Report (dated 26.07.2024, site inspection on 18.04.2024)

Members Present: Shri Surender Gugloth, Scientist "E", MoEF&CC-IRO, Nagpur; Shri Kiran Hasbanis, Regional Officer, MPCB, Thane; Shri Tanaji Gambhire, Advocate of applicant; Shri Sachin Patil, Sectional Engineer MBMC. Mrs. Smita R Vanave, Field Officer, MPCB, Thane-II accompanied.

Key Observations and Findings:

- **Environmental Clearance (EC):**
 - PP obtained EC dated 07.10.2014 for 58128.34 sq-m total built-up area.
 - PP obtained amendment & expansion EC dated 14.02.2019 for 79522.36 sq-m total built-up area.
 - PP obtained expansion EC dated 13.09.2022 for 97,373.47 sq-m total built-up area.

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- First plinth check certificates for building No.- A to I (dated 23/01/2015) were obtained *after* the grant of EC from SEIAA, Maharashtra.
- MBMC provided sanctioned plans and completion certificates for various buildings (F, G, H, C, D, E).
- **Consent to Establish (CTE) & Consent to Operate (CTO):**
 - PP's application for CTE in 2013 was rejected on 15.04.2013.
 - PP obtained CTE dated 25.01.2019 for 79522.36 sq-m.
 - PP initiated construction activities (plinth level certificate on 03.07.2014) without obtaining mandatory CTE. Ex-post facto CTE was obtained on 25.01.2019.
 - PP obtained 1st part CTO dated 02.07.2021 (valid up to 30.04.2023) for 32545.61 sq-m built-up area.
 - PP obtained CTO dated 14.01.2024 (valid up to 30.04.2026) with penal charges of Rs. 3,19,425/- paid.
- **Environmental Services:**
 - **STP:** PP provided STP of reported design capacity of 450 CMD. Unit operations and processes are installed underground and were found in operation. Grab samples collected from STP inlet and outlet on 18.04.2024.
 - Analysis results showed SS: 35 mg/l (against 20 mg/l std), BOD: 60 mg/l (against 10 mg/l std), and COD: 112 mg/l (against 50 mg/l std). These were exceeding MPCB prescribed discharge standards.
 - **OWC:** PP installed 01 Organic Waste Converter (OWC) of 350 kg/day capacity. However, the said OWC was *not*

in operation during the inspection on 18.04.2024. Non-biodegradable waste is disposed to MBMC.

- **Borewell/Groundwater:** The joint committee *did not observe bore well* in the project site.
- **Rainwater Harvesting:** PP has provided rainwater harvesting system.
- **RG Area & Tree Plantation:**
 - EC dated 07.10.2014 mandated RG area on ground of 3143.21 sq-m and 1885.93 sq. mtrs above Basement slab, and 229 trees on the ground.
 - Joint Committee observed: RG on mother earth: 859.15 sq.mtr only. RG on Podium: 3004.59 sq.mtr. Total RG area provided: 3863.76 sq.mtr. PP planted 396 trees in RG area and 510 Miyawaki plantation on ground.
- **Nalla/Water Course:** No Nalla was shown in previous approval of Layout and Building Plans of Municipal Corporation.
- **Fire Tender Movement:** Municipal Corporation has granted OC after verification of Space for Fire tender Movement.
- **Approach for damages for contravening mandatory provisions of environmental laws:**
 - References MPCB Circular dated 12.07.2022 on penal fees.
 - Calculates penal fees for not obtaining CTE from 03.07.2014 to 25.01.2019 (1668 days) at Rs. 1,14,24,657.5/- based on Red category (5 times of one term consent fee X no. of years of violation).

- Opined that calculation of environmental compensation for discharge of pollutants in water bodies and failure to implement waste management rules (due to non-functioning OWC and exceeding STP parameters) *may not be possible*. However, *attempted to assess* environmental compensation using CPCB formula ($EC=PI \times N \times R \times S \times LF$).
 - PI (Red Category, >100 KLD discharge): 80.
 - N (Number of days of violation for not obtaining CTE): 1668 days.
 - R (Factor in Rupees): 250.
 - S (Scale of operation, LSI): 1.5.
 - LF (Location factor, population below 10 millions for MBMC): 1.
 - Calculated EDC for contravening provisions of Water & Air Acts (without obtaining CTE): Rs. 5,00,40,000/-

- This formula & methodology has been replaced by CPCB's "**General Framework for Imposing Environmental Damage Compensation - December 2022**". Hon'ble Supreme Court also has upheld this methodology after adopted by formal rule.

D. MoEF&CC (EIA Notification, 2006)

This document serves as the foundational legal framework for Environmental Clearances in India. It does not contain an affidavit from MoEF&CC specifically responding to the current OA. However, it outlines the requirements for prior EC, categorisation of projects (Category A, B, B1, B2), screening, scoping, public consultation, appraisal, validity of EC, and post-EC monitoring. It classifies "Building and construction

projects" (item 8(a)) as Category B, requiring EC for BUA between 20,000 sq.mtrs and 1,50,000 sq.mtrs. Townships and Area Development projects (item 8(b)) covering an area ≥ 50 ha and/or BUA $\geq 1,50,000$ sq.mtrs are also Category B and appraised as Category B1. Projects under item 8 (Construction/Township/Commercial Complexes /Housing) do not require Scoping and are appraised based on Form 1/Form 1A and a conceptual plan.

III. Updated Summary of Support/Opposing Statements

- **Project Proponent (R-10) position:** Claims full compliance with all valid environmental permissions (ECs, CTEs, CTOs) and that construction is complete. Acknowledges some procedural delays in obtaining consents but states penalties were paid and argues the Tribunal has no jurisdiction over periods beyond the 5-year limitation. Disputes the Joint Committee's EDC calculations, stating they are inappropriate for the nature of the alleged violations (procedural vs. actual pollution) and that MPCB circulars on penal fees are *ultra vires*. Asserts environmental infrastructure (STP, OWC) is functional and samples are within limits (contradicting JCR's inspection findings but aligned with MPCB's later inspection). Highlights the change in 'occupier' to the society for future compliances.
- **MPCB (R-5) position:** Supports the Project Proponent's current compliance status based on its latest site visit (10.12.2024), stating that STPs and OWC are operational and treated water parameters are within limits. Confirms the issuance of various CTEs and CTOs, including renewals, and the payment of penal charges by the PP for consent renewal delays. Acknowledges the Joint

Committee Report (dated 26.07.2024) but provides more recent (10.12.2024) and favourable observations.

- **Joint Committee Report (MoEF&CC, MPCB, MBMC) (dated 26.07.2024, inspection 18.04.2024):** This report, filed by the Committee including MPCB, confirmed several violations initially alleged by the Applicants. Specifically, it noted:
 - i. Construction initiated *without prior CTE*.
 - ii. STP effluent parameters *exceeded* prescribed standards.
 - iii. OWC was *not in operation*.
 - iv. Calculated penal fees and EDC for the period of non-CTE compliance.
 - v. Noted discrepancy in RG area on Mother Earth.
 - vi. Did *not observe a bore well* at the site.
- **Contradiction:** A significant contradiction exists between the Joint Committee Report's findings (inspection on 18.04.2024) and the MPCB's later affidavit (site visit on 10.12.2024) regarding the operational status of the OWC and the compliance of STP effluent. **The later MPCB report indicates that previous non-compliances may have been rectified by December 2024.**

IV. SUMAMRY OF ALL SUBMISSIONS AND CONCLUSION

1. The present Original Application (OA) has been filed by Mr. Irba Mashnaji Konapure and Mr. Sayyed Mohammed Sabir Usman (hereinafter referred to as "Applicants") alleging gross intentional violations of various environmental laws by M/s. JK Developers (Respondent No. 10, hereinafter referred to as "Project Proponent"

or "PP") in their residential and commercial project "IRIS" situated at Village-Ghodbandar, District-Thane, Maharashtra. The Applicants seek demolition of illegal structures, imposition of environmental compensation, and directions for restitution and compliance with environmental norms.

2. The Applicants' grievances primarily include alleged illegal excess construction, delays in obtaining and renewing environmental clearances (EC), Consent to Establish (CTE), and Consent to Operate (CTO), unscientific installation and non-operation of Sewage Treatment Plants (STPs) and Organic Waste Converters (OWCs), failure to provide adequate green belt/Reserved Green (RG) area on virgin land, lack of rainwater harvesting and solar energy systems, illegal groundwater extraction, and damage to natural water courses.
3. Upon admission of the application, this Tribunal, vide its order dated 13.02.2024, constituted a Joint Committee comprising one member each from the Ministry of Environment, Forests and Climate Change (MoEF&CC), the Maharashtra Pollution Control Board (MPCB), and the Mira Bhayander Municipal Corporation (MBMC). The Committee was directed to visit the site, ascertain the alleged violations, calculate Environmental Damage Compensation (EDC) if violations were found, and submit a factual and action-taken report within two months. The MPCB was designated as the nodal agency.
4. The Joint Committee inspected on 18.04.2024 and submitted its report on 26.07.2024. The Project Proponent (Respondent No. 10) filed a detailed affidavit in reply, denying the allegations and challenging the

EDC calculation. The MPCB (Respondent No. 5) also filed an affidavit, providing its own site visit observations from 10.12.2024 and laboratory analysis reports.

Analysis of Pleadings and Evidence:

5. **Substantial Question Relating to Environment and Maintainability:** This Tribunal, as per Section 14 of the National Green Tribunal Act, 2010, adjudicates upon "substantial questions relating to the environment." Furthermore, Rule 14 of the NGT (Practice & Procedure) Rules, 2011, explicitly states that "Every application or appeal, as the case may be, shall be based upon a single cause of action and shall not raise more than one substantial question relating to the environment." The present OA, as pleaded by the Applicants, consolidates numerous alleged violations spanning different timeframes and concerning various environmental aspects, including procedural lapses in obtaining consents, issues with infrastructure operation, and non-compliance with planning norms. This aggregation of distinct factual matrices and potential causes of action within a single application raises concerns regarding its maintainability under the strictures of Rule 14.
6. **Findings on Alleged Violations based on Reports:**
 - o **Environmental Clearances and Consents:** The record indicates that the Project Proponent possesses a series of ECs (dated 07.10.2014, 14.02.2019, 13.09.2022). While the Joint Committee Report indeed found that construction was initiated prior to obtaining the mandatory CTE (plinth certificate dated 03.07.2014 vs. CTE dated 25.01.2019), and noted gaps in CTO revalidation, the MPCB's subsequent

actions of issuing ex-post facto CTEs and renewing CTOs, with the collection of penal charges (Rs. 3,19,425/- paid for CTO renewal), suggest a process of regulatory reconciliation for these procedural non-compliances. The Project Proponent's contention regarding the 5-year limitation period and the validity of MPCB's circulars on penal fees (arguing they are *ultra vires* and lacking statutory support) are legal arguments concerning the enforcement mechanism itself, rather than a direct, unmitigated environmental harm at present.

- **Operation of Environmental Infrastructure:**
 - **STP Operation:** The Joint Committee's inspection on 18.04.2024 found that the STP was operating but its outlet effluent parameters (SS, BOD, COD) *exceeded* MPCB prescribed discharge standards. However, the subsequent affidavit filed by MPCB, based on its site visit on 10.12.2024, explicitly states that the STPs were operational and samples collected *then* showed parameters *within limits*. This indicates that remedial measures were likely undertaken between these two inspection dates, leading to compliance. The latest monitoring reports from Gadark Lab (September 2024) also show BOD, COD, and TSS within limits for the STP outlet.
 - **OWC Operation:** The Joint Committee observed on 18.04.2024 that the OWC was "not in operation". Conversely, the MPCB's later site visit report of 10.12.2024 clearly states that "PP has installed OWC having capacity 500 Kg/D and found in operation. Converted waste is used as a

manure". This again demonstrates a rectification of the earlier noted non-compliance.

- **RG Area and Tree Plantation:** While the Applicants allege deficiency in RG area on virgin land , the Joint Committee noted that RG area on "mother earth" was 859.15 Sq.mtr and on "Podium" was 3004.59 Sq.mtr, with a total of 3863.76 Sq.mtr, and that 396 trees were planted in RG area along with 510 Miyawaki plantation. This indicates that green cover has been provided, though the exact adherence to "virgin land" for all RG area might be debatable based on original sanction plans.
- **Illegal Groundwater Extraction:** Both the Project Proponent and the Joint Committee explicitly stated that no borewell was observed or is in use for groundwater extraction at the project site. This directly refutes the Applicant's allegation on this point.
- **Damage to Natural Water Course:** The Joint Committee stated that "no Nalla was shown in previous approval of Layout and Building Plans of Municipal Corporation", which contradicts the Applicant's assertion of damage to an existing water course.

7. **Environmental Damage Compensation (EDC) Calculation:** The Joint Committee calculated a penal fee of Rs. 1,14,24,657.5/- for the period of not obtaining CTE and an EDC of Rs. 5,00,40,000/- for contravening provisions of Water and Air Acts. However, the Project Proponent has argued that the CPCB formula used for EDC is designed for direct pollution discharges,

not for procedural delays during construction (where dust, not water pollution, would be the primary concern). Furthermore, the MPCB has already collected penal charges from the PP for consent delays, which implicitly addresses the financial aspect of past procedural non-compliance. This Tribunal's role is not to act as a punitive body for past procedural lapses where current compliance is demonstrated and existing regulatory mechanisms have already addressed the issue, unless a clear, measurable, and unmitigated environmental damage is established.

8. **No Measurable Damage to Environment:** Based on the most recent reports and affidavits, particularly the MPCB's site visit on 10.12.2024 and the latest Gadark Lab reports (September 2024), the environmental infrastructure appears to be functioning, and the discharge parameters are within prescribed limits. While initial inspections by the Joint Committee noted certain non-compliances (e.g., STP effluent standards and OWC operation on 18.04.2024), these seem to have been rectified. The core of environmental jurisprudence, as applied by this Tribunal, is to prevent and control pollution and ensure remediation of actual environmental damage. Where such damage is not demonstrably ongoing, and where remedial actions have been taken, the premise for imposing further substantial penalties for past procedural issues, particularly if already monetarily addressed by the regulatory authority, becomes tenuous in an application primarily seeking restitution and prevention of ongoing harm.

RESPONDENT NO. 10 REQUESTS THAT:

9. The present application, while raising a multitude of environmental concerns, suffers from a procedural infirmity under Rule 14 of the NGT (Practice & Procedure) Rules, 2011, by aggregating several disparate alleged violations and causes of action within a single Original Application. This dilutes the focus on a single, substantial environmental question. The primary objective of the NGT is not to re-adjudicate upon past procedural non-compliances that have already been addressed by the statutory regulatory authorities through established mechanisms, including the imposition of penalties, unless there is clear evidence of unmitigated, significant environmental damage.
10. The evidence on record, particularly the more recent monitoring reports from the MPCB and independent laboratories, indicates that the environmental infrastructure at the project site is now operational and meeting prescribed standards, and earlier noted non-compliances regarding STP effluent quality and OWC operation appear to have been rectified. In the absence of a clear, present, and measurable environmental damage that warrants further drastic intervention such as demolition or additional significant compensation beyond what the regulatory authority has already levied or sought to levy, and considering the procedural shortcomings of the application, this Tribunal finds no compelling reason to grant the extensive reliefs sought.

CURRENT STATUS

- A.** The project is complete in all respect including all environmental amenities, as per EC and Consent.
- B.** MPCB has granted 'Consent to Operate' even for the last Part-4 on 06/02/2025 valid up to 31/12/2029.

- C.** MBMC has issued 'Occupancy Certificate' for the entire project on 17/02/2025.
- D.** The possession of the project has been handed over to the occupants and the same has been accepted by the society. General Body Meeting Minutes of Meeting dated 16/08/2024.

HON'BLE SUPREME COURT RECENT JUDGEMENTS

11. As summary of all these Judgements below, EDC can be imposed as per CPCB Framework of 2022 and that too only after rules are formulated. There is no damage to environment. Hence no EDC should be imposed unless determined properly and levied under rule of law.
- a) 2022-01-21 SC Judg CA No.1046_2019 **Kantha Vibhag Yuva Koli Samaj Parivartan Trust Vs SoG**
 - b) 2025-08-04 SC Judg CA Nos. 757-760_2013 **DPCC Vs Lodhi Property**
 - c) 2025-09-01 SC CA 8119_2022 **Triveni Engg Vs UP**: Can't outsource its adjudicatory functions to Expert Committees

FINAL PRAYERS FOR DISPOSING OF THE OA:

12. The Original Application No. 36/2024(WZ) be dismissed, primarily on the ground of maintainability under Rule 14 of the National Green Tribunal (Practice & Procedure) Rules, 2011, which mandates that an application shall be based upon a single cause of action and shall not raise more than one substantial question relating to the environment.
13. Furthermore, based on the reports and affidavits placed before this Tribunal, it is observed that while certain

non-compliances may have existed in the past, these appear to have been addressed by the Project Proponent and the regulatory authority, MPCB, through the issuance of necessary consents and the collection of penal charges, and the environmental infrastructure is now reported to be functioning in compliance with the prescribed norms. The Tribunal finds no sufficient evidence of ongoing substantial environmental degradation directly attributable to the Project Proponent that would warrant further intervention at this juncture.

14. Hon'ble Tribunal may hold that the delay in obtaining the 'Consent to Establish' and 'Consent to Operate' is the procedural delay, and that doesn't mean that it has resulted in the pollution and damage to the environment, unless it is shown by the Applicant.

15. The Applicants are at liberty to file fresh applications, if so advised, addressing specific, distinct, and substantial questions relating to the environment, each founded on a single cause of action, and supported by concrete evidence of ongoing, unmitigated, and measurable environmental damage, in accordance with the provisions of the NGT Act, 2010, and relevant rules.

Date: 10-12-2025
Place: Pune



ADVOCATE FOR RESPONDENT NO. 10
M/S J K DEVELOPERS

MAHARASHTRA POLLUTION CONTROL BOARD

Tel: 24010706/24010437
 Fax: 24023516
 Website: <http://mpcb.gov.in>
 Email: cac-cell@mpcb.gov.in



Kalpataru Point, 2nd, 3rd
 and 4th floor, Opp. Cine
 Planet Cinema, Near Sion
 Circle, Sion (E),
 Mumbai-400022

Infrastructure/RED/L.S.I

No:- Format1.0/CC/UAN No.0000200692/CE/2502000567

Date: 06/02/2025

To,
 M/s. J K Developers, "JK - IRIS"
 located at S. No. 21 H. No. 1, Old S. No 24
 H. No. 1 & Now New S. No. 24 H.No.2,
 S.No.20 H.No.6 (Part), S. No. 20 H. No.7
 (Part), Ghodbunder,
 Tal & Dist: Thane



Sub: Revalidation of Consent to Establish for residential & commercial construction project under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981

- Ref:**
1. Consent to Establish granted vide No. Format1.0/BO/ROHQ/UAn-50196/CE/CC-1901001927 dtd. 25.01.2019.
 2. Environment Clearance granted vide No. SEIAA-EC-0000000683 DATED 14/02/2019
 3. 1st Consent to Operate (Part-I) granted vide No. Fomrat1.0/CC/UAN NO.107739/CO-2107000123 dtd. 02.07.2021 & RENEWAL OF CONSNET FOR VALID UP TO 30/04/2026
 4. Environment Clearance granted vide No. SIA/MH/MIS/256930/2022 dtd.14/02/2019
 5. 1st Consent to Operate (Part-II) granted vide dtd. 14/02/2023 VALID UP TO 30/04/2026
 6. 1st Consent to Operate (Part-III) granted vide dtd. 22/06/2024 VALID UP TO 30/04/2028
 7. Minutes of 14th Consent Committee Meeting (Agenda A) of 2024-2025 held on 17/01/2025

Your application NO. MPCB-CONSENT-0000200692

For: grant of Consent to Establish under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 6 of the Hazardous & Other Wastes (Management & Transboundry Movement) Rules 2016 is considered and the consent is hereby granted subject to the following terms and conditions and as detailed in the schedule I,II,III & IV annexed to this order:

1. **The Revalidation of Consent to Establish is granted for a period upto commissioning of project or up to 5 year whichever is earlier.**
2. **The capital investment of the project is Rs.220 Cr. (As per undertaking submitted by pp).**

3. **The Consent to Establish is valid for remaining Construction of Residential & Commercial Building project named as M/s. J K Developers, "JK - IRIS" Proposed residential building with shopline located at S. No. 21 H. No. 1, Old S. No 24 H. No. 1 & Now New S. No. 24 H.No.2, S.No.20 H.No.6 (Part), S. No. 20 H. No.7 (Part), Ghodbunder, Thane 401107. on Total Plot Area of 19363.00 SqMtrs for construction BUA of 64,827.86 sq.mt out of Total Builtup area 97,373.47 sq.mt SqMtrs out of Total Construction BUA of SqMtrs as per EC granted dated 13/09/2022 including utilities and services**

Sr.No	Permission Obtained	Plot Area (SqMtr)	BUA (SqMtr)
1	Consent to Establish granted dtd. 25.01.2019	19946.00	79522.36
2	Environment Clearance dtd. 03/03/2023	19946.00	79522.36
3	1st Consent to Operate (Part-I) dt: 08/06/2023	19363.00	32545.61
4	Environment Clearance granted dtd. 13.09.2022	19363.00	97373.47
5	1st Consent to Operate (Part-II) Granted dtd. 26/06/2023	19363.00	29323.02
6	1st Consent to Operate (Part-III) dated 29/03/2023	19363.00	23031.10

4. **Conditions under Water (P&CP), 1974 Act for discharge of effluent:**

Sr No	Description	Permitted (in CMD)	Standards to	Disposal
1.	Trade effluent	Nil	NA	NA
2.	Domestic effluent	491	As per Schedule - I	The treated effluent shall be 60% recycled for secondary purposes such as toilet flushing, air conditioning, cooling tower make up, firefighting etc. and remaining shall be connected to the sewerage system provided by local body

5. **Conditions under Air (P& CP) Act, 1981 for air emissions:**

Stack No.	Description of stack / source	Number of Stack	Standards to be achieved
S1	DG Set 630 KVA	1	As per Schedule -II
S2	DG Set 120 KVA x3	3	As per Schedule -II

6. **Conditions under Solid Waste Rules, 2016:**

Sr No	Type Of Waste	Quantity & UoM	Treatment	Disposal
1	STP SLUDGE	78 Kg/Annum	Filter Press	Used as Manure
2	WET WASTE	1254 Kg/Day	Treated in organic waste composter	Used as Manure
3	DRY WASTE	855 Kg/Day	Segregation	Segregate & handover to the local authorised vendor

T.C



7. Conditions under Hazardous & Other Wastes (M & T M) Rules 2016 for Collection, Segregation, Storage, Transportation, Treatment and Disposal of hazardous waste:

Sr No	Category No.	Quantity	UoM	Treatment	Disposal
NA					

8. PP shall comply with the conditions stipulated in Environment Clearance & consent conditions and submit BG of Rs. 10 Lakhs towards compliance of the same
9. PP shall install online monitoring system to the O/L of STP for monitoring pH, Flow, BOD, TSS
10. The treated domestic effluent shall be 60 % recycled for secondary purpose such as toilet flushing, air conditioning, cooling tower make up, firefighting etc. and reaming shall be utilized on land for gardening and connected to the sewerage system provided by local body
11. Project Proponent shall provide Organic waste digester with composting facility or Bio-gas digester with composting facility
12. Project Proponent shall make provision of charging port for Electric vehicles in at least 40% total available parking area
13. PP shall comply with the provision of Construction & Demolition Waste management Rules 2016
14. Project Proponent shall take adequate measures to control noise and dust emissions during construction phase
15. project Proponent shall submit an affidavit in Board's prescribed format within 15 days regarding the compliance of C to E conditions
16. Project proponent shall comply with the conditions stipulated in Environment Clearance granted by GOM, vide No. SIA/MH/MIS/256930/2022 dtd. 13.09.2022.
17. This revalidation of Consent to establish is issued without prejudice to the orders passed/ being passed by the Hon'ble NGT in OA NO 36/2024

This consent is issued on the basis of information/documents submitted by the Applicant/Project Proponent, if it has been observed that the information submitted by the Applicant/Project Proponent is false, misleading or fraudulent, the Board reserves its right to revoke the consent & further legal action will be initiated against the Applicant/Project Proponent.



Dishnary

GENERATED BY E-SIGNATURE

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Signed by: Dr. Avinash Dhakne
Member Secretary
For and on behalf of,
Maharashtra Pollution Control Board
ms@mpcb.gov.in
2025-02-06 21:07:44 IST

Received Consent fee of -

Sr.No	Amount(Rs.)	Transaction/DR.No.	Date	Transaction Type
1	444000.00	MPCB-DR-25000	04/03/2024	NEFT
2	19287.67	TXN2407005345	29/07/2024	Online Payment

Copy to:

1. Regional Officer, MPCB, Thane and Sub-Regional Officer, MPCB, Thane II
- They are directed to ensure the compliance of the consent conditions.
2. Chief Accounts Officer, MPCB, Sion, Mumbai



SCHEDULE-I

Terms & conditions for compliance of Water Pollution Control:

- 1) A] As per your application, you have proposed to provide MBBR based Sewage Treatment Plants (STPs) of combined capacity **500 CMD for treatment of domestic effluent of 491 CMD.**
- B] The Applicant shall operate the sewage treatment plant (STP) to treat the sewage so as to achieve the following standards prescribed by the Board or under EP Act, 1986 and Rules made there under from time to time, whichever is stringent.

Sr.No	Parameters	<i>Limiting concentration not to exceed in mg/l, except for pH</i>
1	pH	5.5-9.0
2	BOD	10
3	COD	50
4	TSS	20
5	NH4 N	5
6	N-total	10
7	Fecal Coliform	less than 100

- C] The treated domestic effluent shall be 60% recycled for secondary purposes such as toilet flushing, air conditioning, cooling tower make up, firefighting etc. and remaining shall be utilized on land for gardening and connected to the sewerage system provided by local body.
- 2) The Board reserves its rights to review plans, specifications or other data relating to plant setup for the treatment of waterworks for the purification thereof & the system for the disposal of sewage or trade effluent or in connection with the grant of any consent conditions. The Applicant shall obtain prior consent of the Board to take steps to establish the unit or establish any treatment and disposal system or and extension or addition thereto.
- 3) The industry shall ensure replacement of pollution control system or its parts after expiry of its expected life as defined by manufacturer so as to ensure the compliance of standards and safety of the operation thereof.
- 4) **The Applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Act,1974 and as amended, and other provisions as contained in the said act.**

Sr. No.	<i>Purpose for water consumed</i>	<i>Water consumption quantity (CMD)</i>
1.	Industrial Cooling, spraying in mine pits or boiler feed	0.00
2.	Domestic purpose	588.00
3.	Processing whereby water gets polluted & pollutants are easily biodegradable	0.00
4.	Processing whereby water gets polluted & pollutants are not easily biodegradable and are toxic	0.00
5.	Grandening/Other consumption	0

- 5) The Applicant shall provide Specific Water Pollution control system as per the conditions of EP Act, 1986 and rule made there under from time to time.

SCHEDULE-II**Terms & conditions for compliance of Air Pollution Control:**

- 1) As per your application, you have proposed to provide the Air pollution control (APC) system and also proposed to erect following stack (s) and to observe the following fuel pattern-

Stack No.	Source	APC System provided/proposed	Stack Height(in mtr)	Type of Fuel	Sulphur Content(in %)	Pollutant	Standard
S1	DG Set 630 KVA	Acoustic Enclosure	5.00	HSD 36 Ltr/Hr	1	SO ₂	17.28 Kg/Day
S2	DG Set 120 KVA X 3 Nos	Acoustic Enclosure	5.00	HSD 72 Ltr/Hr	1	SO ₂	34.56 Kg/Day

- 2) The applicant shall operate and maintain above mentioned air pollution control system, so as to achieve the level of pollutants to the following standards.

Total Particular matter	Not to exceed	150 mg/Nm ³
-------------------------	---------------	------------------------

- 3) The Applicant shall obtain necessary prior permission for providing additional control equipment with necessary specifications and operation thereof or alteration or replacement well before its life come to an end or erection of new pollution control equipment.
- 4) The Board reserves its rights to vary all or any of the condition in the consent, if due to any technological improvement or otherwise such variation (including the change of any control equipment, other in whole or in part is necessary).
- 5) **Conditions for utilities like Kitchen, Eating Places, Canteens:-**
- The kitchen shall be provided with exhaust system chimney with oil catcher connected to chimney through ducting.
 - The toilet shall be provided with exhaust system connected to chimney through ducting.
 - The air conditioner shall be vibration proof and the noise shall not exceed 68 dB(A).
 - The exhaust hot air from A.C. shall be attached to Chimney at least 5 mtrs. higher than the nearest tallest building through ducting and shall discharge into open air in such a way that no nuisance is caused to neighbors.

SCHEDULE-III**Details of Bank Guarantees:**

Sr. No.	Consent(C2E/C2O/C2R)	Amt of BG Imposed	Submission Period	Purpose of BG	Compliance Period	Validity Date
1	Revalidation of Consent to Establish	Rs. 10 Lakh	Extend existing BG	Towards Compliance of Consent conditions	Up to Commissioning of the project	Up to Commissioning of the project

** The above Bank Guarantee(s) shall be submitted by the applicant in favour of Regional Officer at the respective Regional Office within 15 days of the date of issue of Consent.
Existing BG obtained for above purpose if any may be extended for period of validity as above.

BG Forfeiture History

Srno.	Consent (C2E/C2O/C2R)	Amount of BG imposed	Submission Period	Purpose of BG	Amount of BG Forfeiture	Reason of BG Forfeiture
NA						

BG Return details

Srno.	Consent (C2E/C2O/C2R)	BG imposed	Purpose of BG	Amount of BG Returned
NA				



SCHEDULE-IV

Conditions during construction phase

A	During construction phase, applicant shall provide temporary sewage and MSW treatment and disposal facility for the staff and worker quarters.
B	During construction phase, the ambient air and noise quality shall be maintained and should be closely monitored through MoEF approved laboratory.
C	Noise should be controlled to ensure that it does not exceed the prescribed standards. During night time the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with the prevalent regulations.

General Conditions:

- 1 The applicant shall provide facility for collection of samples of sewage effluents, air emissions and hazardous waste to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- 2 The firm shall strictly comply with the Water (P&CP) Act, 1974, Air (P&CP) Act, 1981 and Environmental Protection Act 1986 and Solid Waste Management Rule 2016, Noise (Pollution and Control) Rules, 2000 and E-Waste (Management & Handling Rule 2011).
- 3 Drainage system shall be provided for collection of sewage effluents. Terminal manholes shall be provided at the end of the collection system with arrangement for measuring the flow. No sewage shall be admitted in the pipes/sewers downstream of the terminal manholes. No sewage shall find its way other than in designed and provided collection system.
- 4 Vehicles hired for bringing construction material to the site should be in good condition and should conform to applicable air and noise emission standards and should be operated only during non-peak hours.
- 5 Conditions for D.G. Set
 - a) Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.
 - b) Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
 - c) Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.
 - d) Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.
 - e) A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use.
 - f) D.G. Set shall be operated only in case of power failure.
 - g) The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set.
 - h) The applicant shall comply with the notification of MoEFCC, India on Environment (Protection) second Amendment Rules vide GSR 371(E) dated 17.05.2002 and its amendments regarding noise limit for generator sets run with diesel.

- 6 Solid Waste - The applicant shall provide onsite municipal solid waste processing system & shall comply with Solid Waste Management Rule 2016 & E-Waste (M & H) Rule 2011.
- 7 Affidavit undertaking in respect of no change in the status of consent conditions and compliance of the consent conditions the draft can be downloaded from the official web site of the MPCB.
- 8 Applicant shall submit official e-mail address and any change will be duly informed to the MPCB.
- 9 The treated sewage shall be disinfected using suitable disinfection method.
- 10 The firm shall submit to this office, the 30th day of September every year, the environment statement report for the financial year ending 31st march in the prescribed Form-V as per the provision of rule 14 of the Environmental (Protection) Second Amended rule 1992.
- 11 The applicant shall obtain Consent to Operate from Maharashtra Pollution Control Board before commissioning of the project.

This certificate is digitally & electronically signed.



MAHARASHTRA POLLUTION CONTROL BOARD

Tel: 24010706/24010437
 Fax: 24023516
 Website: <http://mpcb.gov.in>
 Email: cac-cell@mpcb.gov.in



Kalpataru Point, 2nd, 3rd
 and 4th floor, Opp. Cine
 Planet Cinema, Near Sion
 Circle, Sion (E),
 Mumbai-400022

Infrastructure/RED/L.S.I

No:- Format1.0/CC/UAN No.0000223064/CO/2502000568

Date: 06/02/2025

To,
 M/s. J K Developers, "JK - IRIS"
 located at S. No. 21 H. No. 1, Old S. No 24
 H. No. 1 & Now New S. No. 24 H.No.2,
 S.No.20 H.No.6 (Part), S. No. 20 H. No.7
 (Part), Ghodbunder,
 Tal & Dist: Thane



Sub: Grant of 1st Consent to Operate (Part-4) for Residential Cum Commercial construction Project under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981

- Ref:**
1. Consent to Establish granted vide No. Format1.0/BO/ROHQ/UAn-50196/CE/CC-1901001927 dtd. 25.01.2019.
 2. Environment Clearance granted vide No. SEIAA-EC-0000000683 DATED 14/02/2019
 3. 1st Consent to Operate (Part-I) granted vide No. Fomrat1.0/CC/UAN NO.107739/CO-2107000123 dtd. 02.07.2021 & RENEWAL OF CONSNET FOR VALID UP TO 30/04/2026
 4. Environment Clearance granted vide No. SIA/MH/MIS/256930/2022 dtd.14/02/2019
 5. 1st Consent to Operate (Part-II) granted vide dtd. 14/02/2023 VALID UP TO 30/04/2026
 6. 1st Consent to Operate (Part-III) granted vide dtd. 22/06/2024 VALID UP TO 30/04/2028
 7. Minutes of 14th Consent Committee Meeting (Agenda B) of 2024-2025 held on 17/01/2025

Your application NO. MPCB-CONSENT-0000223064

For: Grant of 1st Consent to Operate (Part-4) for Residential Cum Commercial construction Project under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 6 of the Hazardous & Other Wastes (Management & Transboundry Movement) Rules 2016 is considered and the consent is hereby granted subject to the following terms and conditions and as detailed in the schedule I,II,III & IV annexed to this order:

1. **The 1st Consent to Operate (part-V) is valid up to: 31/12/2029**
2. **The capital investment of the project is Rs.65.97 Cr. (As per undertaking submitted by pp).**

T.C

3. **The Grant of 1st Consent to Operate (Part-4) is valid for Residential Cum Commercial construction Project named as M/s. J K Developers, "JK - IRIS" at S. No. 21 H. No. 1, Old S. No 24 H. No. 1 & Now New S. No. 24 H.No.2, S.No.20 H.No.6 (Part), S. No. 20 H. No.7 (Part), Ghodbunder, Thane 401107 Total Plot Area of 19363.00 SqMtrs for construction BUA of 12,473.74 sq.mt out of Total Built-up area 97,373.47 sq.mt as per EC granted dated 13/09/2022 including utilities and services**

Sr.No	Permission Obtained	Plot Area (SqMtr)	BUA (SqMtr)
1	Consent to Establish granted dtd. 25.01.2019	19946.00	79522.36
2	Environment Clearance dtd. 03/03/2023	19946.00	79522.36
3	1st Consent to Operate (Part-I) dt: 08/06/2023	19363.00	32545.61
4	Environment Clearance granted dtd. 13.09.2022	19363.00	97373.47
5	1st Consent to Operate (Part-II) Granted dtd. 26/06/2023	19363.00	29323.02
6	1st Consent to Operate (Part-III) dated 29/03/2023	19363.00	23031.10

4. **Conditions under Water (P&CP), 1974 Act for discharge of effluent:**

Sr No	Description	Permitted (in CMD)	Standards to	Disposal
1.	Trade effluent	Nil	NA	NA
2.	Domestic effluent	491	As per Schedule - I	The treated effluent shall be 60% recycled for secondary purposes such as toilet flushing, air conditioning, cooling tower make up, firefighting etc. and remaining shall be connected to the sewerage system provided by local body

5. **Conditions under Air (P& CP) Act, 1981 for air emissions:**

Stack No.	Description of stack / source	Number of Stack	Standards to be achieved
S1	DG Set 450 KVA	1	As per Schedule -II

6. **Conditions under Solid Waste Rules, 2016:**

Sr No	Type Of Waste	Quantity & UoM	Treatment	Disposal
1	STP SLUDGE	45 Kg/Annum	Filter Press	Used as Manure
2	WET WASTE	91 Kg/Day	Treated in organic waste composter	Used as Manure
3	DRY WASTE	136 Kg/Day	Segregation	Segregate & handover to the local authorised vendor

7. **Conditions under Hazardous & Other Wastes (M & T M) Rules 2016 for Collection, Segregation, Storage, Transportation, Treatment and Disposal of hazardous waste:**

Sr No	Category No.	Quantity	UoM	Treatment	Disposal
NA					

8. PP shall comply with the conditions stipulated in Environment Clearance & consent conditions and submit BG of Rs. 10 Lakhs towards compliance of the same
9. PP shall install online monitoring system to the O/L of STP for monitoring pH, Flow, BOD, TSS
10. The treated domestic effluent shall be 60 % recycled for secondary purpose such as toilet flushing, air conditioning, cooling tower make up, firefighting etc. and reaming shall be utilized on land for gardening and connected to the sewerage system provided by local body
11. Project Proponent shall provide Organic waste digester with composting facility or Bio-gas digester with composting facility
12. Project Proponent shall make provision of charging port for Electric vehicles in at least 40% total available parking area
13. PP shall comply with the provision of Construction & Demolition Waste management Rules 2016
14. Project Proponent shall take adequate measures to control noise and dust emissions during construction phase
15. project Proponent shall submit an affidavit in Board's prescribed format within 15 days regarding the compliance of C to E conditions
16. Project proponent shall comply with the conditions stipulated in Environment Clearance granted by GOM, vide No. SIA/MH/MIS/256930/2022 dtd. 13.09.2022.
17. This of Consent to operate is issued without prejudice to the orders passed/ being passed by the Hon'ble NGT in OA NO 36/2024

This consent is issued on the basis of information/documents submitted by the Applicant/Project Proponent, if it has been observed that the information submitted by the Applicant/Project Proponent is false, misleading or fraudulent, the Board reserves its right to revoke the consent & further legal action will be initiated against the Applicant/Project Proponent.

Received Consent fee of -

Sr.No	Amount(Rs.)	Transaction/DR.No.	Date	Transaction Type
1	500000.00	MPCB-DR-30082	29/11/2024	NEFT

Copy to:

1. Regional Officer, MPCB, Thane and Sub-Regional Officer, MPCB, Thane II
- They are directed to ensure the compliance of the consent conditions.
2. Chief Accounts Officer, MPCB, Sion, Mumbai



SCHEDULE-I**Terms & conditions for compliance of Water Pollution Control:**

- 1) A] As per your application, you have provided MBBR based Sewage Treatment Plants (STPs) of combined capacity **500 CMD for treatment of domestic effluent of 491 CMD.**
- B] The Applicant shall operate the sewage treatment plant (STP) to treat the sewage so as to achieve the following standards prescribed by the Board or under EP Act, 1986 and Rules made there under from time to time, whichever is stringent.

Sr.No	Parameters	Limiting concentration not to exceed in mg/l, except for pH
1	pH	5.5-9.0
2	BOD	10
3	COD	50
4	TSS	20
5	NH4 N	5
6	N-total	10
7	Fecal Coliform	less than 100

- C] The treated domestic effluent shall be 60% recycled for secondary purposes such as toilet flushing, air conditioning, cooling tower make up, firefighting etc. and remaining shall be utilized on land for gardening and connected to the sewerage system provided by local body.
- 2) The Board reserves its rights to review plans, specifications or other data relating to plant setup for the treatment of waterworks for the purification thereof & the system for the disposal of sewage or trade effluent or in connection with the grant of any consent conditions. The Applicant shall obtain prior consent of the Board to take steps to establish the unit or establish any treatment and disposal system or and extension or addition thereto.
- 3) The industry shall ensure replacement of pollution control system or its parts after expiry of its expected life as defined by manufacturer so as to ensure the compliance of standards and safety of the operation thereof.
- 4) **The Applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Act,1974 and as amended, and other provisions as contained in the said act.**

Sr. No.	Purpose for water consumed	Water consumption quantity (CMD)
1.	Industrial Cooling, spraying in mine pits or boiler feed	0.00
2.	Domestic purpose	588.00
3.	Processing whereby water gets polluted & pollutants are easily biodegradable	0.00
4.	Processing whereby water gets polluted & pollutants are not easily biodegradable and are toxic	0.00
5.	Grandening/Other consumption	0

- 5) The Applicant shall provide Specific Water Pollution control system as per the conditions of EP Act, 1986 and rule made there under from time to time.

SCHEDULE-II**Terms & conditions for compliance of Air Pollution Control:**

- 1) As per your application, you have provided the Air pollution control (APC) system and erected following stack (s) and to observe the following fuel pattern-

Stack No.	Source	APC System provided/proposed	Stack Height(in mtr)	Type of Fuel	Sulphur Content(in %)	Pollutant	Standard
S1	DG Set 450KVA	Acoustic Enclosure	5.00	HSD 36 Ltr/Hr	1	SO2	17.28 Kg/Day

- 2) The applicant shall operate and maintain above mentioned air pollution control system, so as to achieve the level of pollutants to the following standards.

Total Particular matter	Not to exceed	150 mg/Nm ³
-------------------------	---------------	------------------------

- 3) The Applicant shall obtain necessary prior permission for providing additional control equipment with necessary specifications and operation thereof or alteration or replacement well before its life come to an end or erection of new pollution control equipment.
- 4) The Board reserves its rights to vary all or any of the condition in the consent, if due to any technological improvement or otherwise such variation (including the change of any control equipment, other in whole or in part is necessary).
- 5) **Conditions for utilities like Kitchen, Eating Places, Canteens:-**
- The kitchen shall be provided with exhaust system chimney with oil catcher connected to chimney through ducting.
 - The toilet shall be provided with exhaust system connected to chimney through ducting.
 - The air conditioner shall be vibration proof and the noise shall not exceed 68 dB(A).
 - The exhaust hot air from A.C. shall be attached to Chimney at least 5 mtrs. higher than the nearest tallest building through ducting and shall discharge into open air in such a way that no nuisance is caused to neighbors.

SCHEDULE-III**Details of Bank Guarantees:**

Sr. No.	Consent(C2E/C2O/C2R)	Amt of BG Imposed	Submission Period	Purpose of BG	Compliance Period	Validity Date
1	Consent to operate	Rs. 10 Lakh	Extend existing BG	Towards Compliance of Consent conditions	31/12/2029	31/03/2030

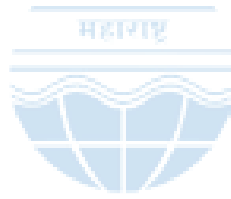
** The above Bank Guarantee(s) shall be submitted by the applicant in favour of Regional Officer at the respective Regional Office within 15 days of the date of issue of Consent.
Existing BG obtained for above purpose if any may be extended for period of validity as above.

BG Forfeiture History

Srno.	Consent (C2E/C2O/C2R)	Amount of BG imposed	Submission Period	Purpose of BG	Amount of BG Forfeiture	Reason of BG Forfeiture
NA						

BG Return details

Srno.	Consent (C2E/C2O/C2R)	BG imposed	Purpose of BG	Amount of BG Returned
NA				



SCHEDULE-IV

General Conditions:

- 1 The applicant shall provide facility for collection of samples of sewage effluents, air emissions and hazardous waste to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- 2 The firm shall strictly comply with the Water (P&CP) Act, 1974, Air (P&CP) Act, 1981 and Environmental Protection Act 1986 and Solid Waste Management Rule 2016, Noise (Pollution and Control) Rules, 2000 and E-Waste (Management & Handling Rule 2011).
- 3 Drainage system shall be provided for collection of sewage effluents. Terminal manholes shall be provided at the end of the collection system with arrangement for measuring the flow. No sewage shall be admitted in the pipes/sewers downstream of the terminal manholes. No sewage shall find its way other than in designed and provided collection system.
- 4 Vehicles hired for bringing construction material to the site should be in good condition and should conform to applicable air and noise emission standards and should be operated only during non-peak hours.
- 5 Conditions for D.G. Set
 - a) Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.
 - b) Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
 - c) Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.
 - d) Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.
 - e) A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use.
 - f) D.G. Set shall be operated only in case of power failure.
 - g) The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set.
 - h) The applicant shall comply with the notification of MoEFCC, India on Environment (Protection) second Amendment Rules vide GSR 371(E) dated 17.05.2002 and its amendments regarding noise limit for generator sets run with diesel.
- 6 Solid Waste - The applicant shall provide onsite municipal solid waste processing system & shall comply with Solid Waste Management Rule 2016 & E-Waste (M & H) Rule 2011.
- 7 Affidavit undertaking in respect of no change in the status of consent conditions and compliance of the consent conditions the draft can be downloaded from the official web site of the MPCB.
- 8 Applicant shall submit official e-mail address and any change will be duly informed to the MPCB.
- 9 The treated sewage shall be disinfected using suitable disinfection method.

- 10 The firm shall submit to this office, the 30th day of September every year, the environment statement report for the financial year ending 31st march in the prescribed Form-V as per the provision of rule 14 of the Environmental (Protection) Second Amended rule 1992.
- 11 The applicant shall make an application for renewal of the consent at least 60 days before date of the expiry of the consent.

This certificate is digitally & electronically signed.



T.C



Mira Bhayandar Municipal Corporation


APPENDIX 'H'
FULL OCCUPANCY CERTIFICATE

OCC No : MBMC/O/7008/0004/2025/AutoDCR
 CC No : MBMCB/7008/2024/APL/0024/AutoDCR

OCC Date : 17 February, 2025
 CC Date : 26 December, 2024

Reference : File No. MBMCB/7008/2024/0078/AutoDCR/OCC & Date. 10 February, 2025

To,
JEETENDRA KAPOOR
KRISHNA BUNGLOW, GREATER BOMBAY, GULMOHAR
ROAD NO 5, PLOT NO 26, JUHU, MUMBAI-400049

Anil Premchand Motiramani (Lic:STATE/R/2025/APL/15610)
 License Engineer
 Commercial Unit No. 4, 5; 2nd and 3rd Floor, KD Hermitage 1,
 Kanakia Road, Opposite Commissioner Bungalow, Mira Road
 East 401107

Building Details

Building Name : 1 (WING-K)	Built up Area: 9163.73 Sq. Mt.
Building Use: Mixed Use	Name of Pwork: 1-1 (WING-K)
Floor Name: TERRACE FLOOR, RECREATIONAL FLOOR, THIRTYSEVENTH FLOOR, THIRTY SIXTH FLOOR, THIRTYFIFTH FLOOR, THIRTYFOURTH FLOOR, THIRTYTHIRD FLOOR, THIRTYSECOND FLOOR, THIRTYFIRST FLOOR, THIRTIETH FLOOR, TWENTYNINTH FLOOR, TWENTYEIGHTH FLOOR, TWENTYSEVENTH FLOOR, TWENTYSIXTH FLOOR, TWENTYFIFTH FLOOR, TWENTYFOURTH FLOOR, TWENTYTHIRD FLOOR, TWENTYSECOND FLOOR, TWENTYFIRST FLOOR, TWENTIETH FLOOR, NINETEENTH FLOOR, EIGHTEENTH FLOOR, SEVENTEENTH FLOOR, SIXTEENTH FLOOR, FIFTEENTH FLOOR, FOURTEENTH FLOOR, THIRTEENTH FLOOR, TWELFTH FLOOR, ELEVENTH FLOOR, TENTH FLOOR, NINTH FLOOR, EIGHTH FLOOR, SEVENTH FLOOR, SIXTH FLOOR, FIFTH FLOOR, FOURTH FLOOR, THIRD FLOOR, SECOND FLOOR, FIRST PARKING FLOOR, GROUND FLOOR, BASEMENT FLOOR	
Building Name : (ROW HOUSE-1)	Built up Area: 318.89 Sq. Mt.
Building Use: Mixed Use	Name of Pwork: -1 (ROW HOUSE-1)
Floor Name: FIRST FLOOR, TERRACE FLOOR, GROUND FLOOR	
Building Name : (SOCIETY OFFICE & DRIVER REST ROOM)	Built up Area: 153.78 Sq. Mt.
Building Use: Mixed Use	Name of Pwork: -1 (SOCIETY OFFICE & DRIVER REST ROOM)
Floor Name: TERRACE FLOOR, GROUND FLOOR	

Gross Plot Area : 19363.00 Sq Mt.

Sir,

The FULL development work in building No.

1 (WING-K)-(TERRACE FLOOR, RECREATIONAL FLOOR, THIRTYSEVENTH FLOOR, THIRTY SIXTH FLOOR, THIRTYFIFTH FLOOR, THIRTYFOURTH FLOOR, THIRTYTHIRD FLOOR, THIRTYSECOND FLOOR, THIRTYFIRST FLOOR, THIRTIETH FLOOR, TWENTYNINTH FLOOR, TWENTYEIGHTH FLOOR, TWENTYSEVENTH FLOOR, TWENTYSIXTH FLOOR, TWENTYFIFTH FLOOR, TWENTYFOURTH FLOOR, TWENTYTHIRD

1185

FLOOR,TWENTYSECOND FLOOR,TWENTYFIRST FLOOR,TWENTIETH FLOOR,NINETEENTH FLOOR,EIGHTEENTH FLOOR,SEVENTEENTH FLOOR,SIXTEENTH FLOOR,FIFTEENTH FLOOR,FOURTEENTH FLOOR,THIRTEENTH FLOOR,TWELFTH FLOOR,ELEVENTH FLOOR,TENTH FLOOR,NINTH FLOOR,EIGHTH FLOOR,SEVENTH FLOOR,SIXTH FLOOR,FIFTH FLOOR,FOURTH FLOOR,THIRD FLOOR,SECOND FLOOR,FIRST PARKING FLOOR,GROUND FLOOR,BASEMENT FLOOR),

(ROW HOUSE-1)-(FIRST FLOOR,TERRACE FLOOR,GROUND FLOOR),

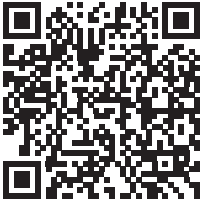
(SOCIETY OFFICE & DRIVER REST ROOM)-(TERRACE FLOOR,GROUND FLOOR) Plot No.:-, Village:Ghodbunder, Hissa No.:-, CTS No. :-, Society.:IRIS, Survey No.:S. NO. 21/1, 24/2, Sector No.:- completed under the supervision of **Anil Premchand Motiramani, License Engineer** (License No. STATE/R/2025/APL/15610) may be occupied on the following conditions.

OFFICE OF THE : Mira Bhayandar Municipal Corporation

Outward No. : MBMC/O/7008/0004/2025/AutoDCR

Date : 17 February, 2025


OCCUPATION GRANTED



Scan QR code for verification of authenticity.

Yours faithfully,
Assistant Director Town Planning

Digitally signed by PURUSHOTTAM
MANOHARAO SHINDE
Date: 17 Feb 2025 13:12:05
Organization: Mira Bhayandar Municipal
Corporation
Designation: Assistant Director Town
Planning



Terms and Condition :

- 1 Authority will supply only drinking water as per availability
- 2 All conditions mentioned in NOC of Tree, Water & Drainage department will be binding.
- 3 It is responsibility of Developer /Society to keep in Operation the system of Solar Water System & rain Water Harvesting system.(if applicable)
- 4 It is responsibility of Developer /Society to keep in Operation the system of CCTV, Lift & Organic Waste Disposal.(if applicable)

Note: Occupancy plan is not issued separately along with this letter. Hence please refer approved plan issued.

A set of certified completion plans is returned herewith.

Enclosed: As above

Office Stamp

T.C



संस्था नोंदणी नंतरची प्रथम सर्वसाधारण सभा

आज दिनांक १६/०८/२०२४ रोजी जे. के. डेव्हलपर्स आयरीस ए.बी.आय.जे.के. विंग आणि रो-हाऊस को-ऑप. हौ. सो. लि., विनय नगर, व्हिलेज- घोडबंदर, जे.पी.जवळ, मिरारोड (पुर्व) ता.जि.ठाणे या संस्थेची नोंदणी नंतरची प्रथम सर्वसाधारण सभा आयोजित करण्यात आलेली असून सदर सभा गणपूर्ती अभावी त्याच ठिकाणी अर्ध्या तासानंतर सुरू करण्यात आलेली आहे. सदर सभेमध्ये खालीलप्रमाणे ठराव संमत करण्यात आले.

विषय क्र. 1 :- सभेकरीता अध्यक्षीची निवड करणे.

ठराव :- आजच्या सभेचे अध्यक्षपद श्री. अजित नागोजी जगदाळे यांनी स्विकारावे असा प्रस्ताव मांडण्यात आला व त्यास सर्वांनी एकमताने मंजूरी दिली तद्नंतर श्री. अजित नागोजी जगदाळे यांनी सभेचे अध्यक्षपद स्विकारून सभेच्या कामकाजास सुरूवात केली.

सुचक :- संदीप रंजन

अनुमोदक :- संजय कोहली

ठराव सर्वानुमते मंजूर

विषय क्र. 2 :- मा. उपनिबंधक यांनी मंजूर केलेली उपविधी स्विकारणे.

ठराव :- मा. उपनिबंधक सहकारी संस्था, ठाणे तालुका यांचेकडून मंजूर झालेला उपविधी व त्यातील नियमावलीबाबत उपस्थित प्राधिकृत अधिकारी श्री. सुधाकर राठोड, सहकारी अधिकारी श्रेणी-2 यांनी महत्वपूर्ण मार्गदर्शन करून सदर नियमावलीच्या अनुषंगाने कामकाज करण्यात यावे असे सर्व सभासदांना सूचित करण्यात आले त्यास सर्वांनी एकमताने मंजूरी दिली.

सुचक :- रविंद्र कुमार

अनुमोदक :- कपील शर्मा

ठराव सर्वानुमते मंजूर

विषय क्र. 3 :- एका वर्षासाठी हंगामी व्यवस्थापक समितीची निवड करणे.

ठराव :- संस्थेच्या आदर्श उपविधीतील तरतुदीनुसार संस्था नोंदणी झाल्यानंतर संस्थेचे कामकाज चालविण्याकरीता एक वर्ष मुदतीकरीता हंगामी समिती स्थापन करणे आवश्यक आहे. असे प्राधिकृत अधिकारी यांनी सांगितले त्या अनुषंगाने संस्थेचे कामकाज करणेकरीता खालीलप्रमाणे हंगामी व्यवस्थापक समिती स्थापन करण्यात आले.

1. संदीप रंजन
2. एजाज शेख
3. दिप्तगुशू चटर्जी
4. संदीप सिंग
5. विनितसिंग परिहार
6. कपील शर्मा
7. संजय कोहली
8. प्रमोद रॉय
9. रविंद्र कुमार
10. निशिकांत उपाध्याय
11. रंजना नायर
12. नेहा शर्मा

- सर्वसाधारण
- सर्वसाधारण
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- सर्वसाधारण
- सर्वसाधारण
- महिला (राखीव)
- महिला (राखीव)



Received by
Praveen B. Kar.
25-9-2025
9867141489

T.C

(Signature)

13. हिमेश टेलर
14. कुलदीप पुरी
15. अभिषेक कांबळे

- इतर मागासवर्गीय मतदार संघ
- विमुक्त जाती/भटक्या जमाती/ विशेष मागास प्रवर्ग
- अनुसूचित जाती मतदार संघ

ठराव सर्वानुमते मंजूर

विषय क्र. 4 :- प्रवर्तका व्यतिरिक्त ज्यांनी संस्थेच्या सभासदत्वासाठी अर्ज केले आहेत त्यांना सभासद करून घेणे.

ठराव :- संस्था नोंदणीनंतर कोणत्याही सभासदाने सभासदत्वासाठी अर्ज केलेले नाहीत असे मुख्यप्रवर्तक यांनी सांगितले त्यामुळे कोणत्याही सभासदास या सभेमध्ये सभासद करून घेण्यात आलेले नाही.

सुचक :- कुलदीप पुरी

अनुमोदक :- हिमेश टेलर

ठराव सर्वानुमते मंजूर

विषय क्र. 5 :- संस्थेच्या मुख्यप्रवर्तकाने पहिल्या सर्वसाधारण सभेच्या अगोदरच्या 14 दिवसापर्यंतच्या कालावधीसाठी तयार केलेल्या जमाखर्चाच्या हिशोबाचे पत्रक स्विकारणे व त्यास मंजूरी देणे.

ठराव :- संस्था नोंदणीपर्यंत झालेला सर्व खर्च विकासक/मुख्यप्रवर्तक यांनी सादर केला त्यास सर्वानुमते मंजूरी देण्यात आली.

सुचक :- विनितसिंग परिहार

अनुमोदक :- दिपतंगूशू चटर्जी

ठराव सर्वानुमते मंजूर

विषय क्र. 6 :- मासिक निधी (मेंटेनन्स) निश्चित करणे.

ठराव :- सभासदांनी मासिक निधी कसा निश्चित करावयाचा व कोणत्या फंडाकरीता उदा. सिंकींग फंड व रिपेअर फंड किती रक्कम सभासदाकडून जमा करावयाची याबाबत प्राधिकृत अधिकारी यांनी मोलाचे मार्गदर्शन केले व सभासदांच्या विनंतीनुसार मासिक निधी त्यांच्या विशेष सर्वसाधारण सभेमध्ये ठरविणार असल्याचे सर्वानुमते सांगण्यात आले व त्यास उपस्थित सर्व सभासदांनी एकमताने मंजूरी दिली.

सुचक :- निशिकांत उपाध्याय

अनुमोदक :- एजाज शेख

ठराव सर्वानुमते मंजूर

विषय क्र. 7 :- सन 2024-25 साठी लेखापरीक्षकाची नियुक्ती करणे.

ठराव :- संस्थेच्या मंजूर उपविधीनुसार व सहकार कायदानुसार संस्थेचे लेखापरीक्षण करणेकरीता लेखापरीक्षकाची नियुक्ती करणे आवश्यक असल्याचे व लेखापरीक्षणाकरीता सहकार पॅनलवरील लेखापरीक्षकाकडूनच लेखापरीक्षण करणे गरजेचे असल्याचे प्राधिकृत अधिकारी यांनी सांगितले त्यानुसार संस्थेचे सन 2024-25 या कालावधीचे लेखापरीक्षण करणेकरीता नामतालिकेवरील लेखापरीक्षकाची निवड करणेचे अधिकार व्यवस्थापक समितीस देण्यात आले.

सुचक :- संजय कोहली
अनुमोदक :- रंजना नायर

ठराव सर्वानुमते मंजूर

विषय क्र. 8 :- दि ठाणे जिल्हा को-ऑप. हौ. फेडरेशनचे सभासदत्व स्विकारणे बाबत निर्णय घेणे.

ठराव :- संस्थेनी दि ठाणे जिल्हा को-ऑप. हौसिंग फेडरेशनचे सभासदत्व घेण्याबाबत उपस्थित प्राधिकृत अधिकारी यांनी सूचना केली व सभासदत्वाचे फायदे सांगितले. जेणेकरून भविष्यातील कामकाजामध्ये संस्थेस सदर फेडरेशन मोलाची मदत करेल.

सुचक :- नेहा शर्मा
अनुमोदक :- अभिषेक कांबळे

ठराव सर्वानुमते मंजूर

विषय क्र. 9 :- हंगामी व्यवस्थापक समितीच्या कोणाही एका सभासदास व्यवस्थापक समितीची पहिली सभा बोलविण्याचा अधिकार देणे.

ठराव :- हंगामी समितीची पहिली सभा बोलविण्यासाठी सर्व निवडलेल्या समिती सदस्यांना सांगण्यात आले त्यावर सर्व हंगामी समितीच्या सदस्यांनी रविंद्र कुमार यांचे नाव सुचविल्याने सभेचा अजेंडा काढण्यासाठी श्री. रविंद्र कुमार यांना अधिकार देण्यात आले.

सुचक :- संदीप सिंग
अनुमोदक :- संजय कोहली

ठराव सर्वानुमते मंजूर

विषय क्र. 10 :- मा. अध्यक्षांच्या परवानगीने आयत्यावेळी येणारे विषय

ठराव :- मा. अध्यक्षांच्या परवानगीने व संस्थेच्या सभासदांनी केलेल्या चर्चेतून तसेच प्राधिकृत अधिकारी यांनी केलेल्या मार्गदर्शनानुसार खालीलप्रमाणे ठराव पारीत करण्यात आले.

1. सदरची व्यवस्थापक समिती ही हंगामी व्यवस्थापक समिती असल्यामुळे त्यांचा कालावधी एक वर्षाचा राहिल.
2. नवीन सदस्य तसेच मुळ सदस्यांच्या जागी नवीन खरेदीदारांची नोंदणी व प्रवेश दिला जाईल.
3. विद्यमान सदस्यांना भाग दाखला जारी करण्यात येतील.
4. विंग ए आणि विंग बी च्या सदनिकाधारकांना पूढील विक्री/खरेदी विक्रीसाठी नाहरकत दाखल दिला जाईल. उर्वरित न विकलेल्या सदनिकेसाठी विकासक नाहरकत दाखला देईल.
5. संस्थेनी विकासकाचे विक्री न झालेल्या संस्थेबाबत प्रिमीयम घेवू नये. तसेच त्यांचे विक्रीसाठी संस्थेनी हस्तक्षेप करू नये.
6. सोसायटीने एसटीपी, ओडब्ल्यूसी, सोलर सिस्टिम, पावसाचे पाणी साठवण, आर.जी व इतर सोई सुविधाशी संबंधित उपकरणे किंवा यंत्रसामग्रीचा ताबा या सभेच्या कार्यवाहीच्या प्रती मिळताच तात्काळ घ्यावा आणि त्यानंतर महाराष्ट्र प्रदूषण मंडळ व एमबीएमसी मार्गदर्शक सुचनांनुसार देखभाल करावी, ज्यामुळे सोसायटीच्या कामकाजाचा सुरळीतपणे चालावा यासाठी मदत होईल.
7. विकासकाने नियुक्त केलेले विक्रेते किमान एक महिना सुरू राहतील. त्यानंतर सोसायटीने त्याच विक्रत्यांने ठेवावे अथवा बदल करावा हे त्यांच्या निर्णयावर अवलंबून राहिल.
8. 15 ऑगस्ट 2025 पासून सोसायटी देखभाल व खर्चाची जबाबदारी स्विकारेल. 15 ऑगस्ट 2025 पर्यंत

देखभाल व खर्च विकासकांकडून सदस्यांसाठी केला जाईल. व त्याचे बिल सोसायटीच्या समितीकडे देण्यात यावे.

9. के विंगच्या 38 व्या मजल्यावरील क्लब हाऊस आणि सोयी-सुविधा केवळ के-विंगच्या सदस्य / सदनिका मालकांच्या वापरासाठीच असतील व त्याच्या देखभालीचा संपूर्ण खर्च के-विंगच्या सदनिका धारकांकडून केला जाईल.

वरीलप्रमाणे संस्थेच्या झालेल्या सभेमध्ये ठराव संमत करण्यात आलेले असून सभा अध्यक्षांच्या परवानगीने सर्व सभासदांचे आभार मानून सभा संपल्याचे जाहीर केले.

मुख्यप्रवर्तक

जे. के. डेव्हलपर्स आयरीस-ए.बी.आय.जे.के.
विंग आणि रो-हाऊस को-ऑप. हौ. सो. लि.,
विनय नगर, व्हिलेज-घोडबंदर, जे.पी.जवळ, मिरारोड (पुर्व) ता.जि.ठाणे



9/16/24
सुधाकर राठोड
सरकारी अधिकारी शेळी-2

CC TO Dy Registrar Thane Taluka

PSP
24/09/24
व. लिपीक
उपनिबंधक

सरकारी संस्था, ठाणे तालुका, ठाणे

English Translation of the Minutes of the First General Body Meeting

The First General Body Meeting after the Registration of the Society

The first General Body Meeting after the registration of J. K. Developers IRIS A.B.I.J.K. Wing & Row House Co-Op. Hsg. Soc. Ltd., Vinay Nagar, Village Ghodbunder, Near J.P., Mira Road (East), Taluka & District Thane, was scheduled for today, **Date: 16/08/2024.**

Due to a lack of quorum, the said meeting was started at the same venue after a lapse of half an hour.

The following resolutions were passed in the said meeting:

SUBJECT NO. 1:

Election of the Chairman for the Meeting

Resolution: A proposal was moved that Shri. Ajit Nagoji Jagdale

should assume the Chairmanship of today's meeting, and the same was unanimously approved by all. Thereafter, Shri. Ajit Nagoji Jagdale accepted the Chairmanship and commenced the proceedings of the meeting.

Resolution Unanimously Approved.

Proposer: Sandeep Ranjan

Seconder: Sanjay Kohli

SUBJECT NO. 2:

Adopting the Bye-laws approved by the Hon'ble Deputy Registrar

Resolution: The Authorized Officer present, Shri. Sudhakar Rathod, Co-operative Officer Grade-2

, provided important guidance regarding the Bye-laws and the Regulations approved by the Hon'ble Deputy Registrar, Co-operative Societies, Thane Taluka. All members were informed that the work should be carried out in accordance with these regulations, which was unanimously approved by all.

Resolution Unanimously Approved.

Proposer: Ravindra Kumar

Seconded: Kapil Sharma

SUBJECT NO. 3:

Selection of a Provisional Managing Committee for a period of one year

Resolution: The Authorized Officer stated that, as per the provisions of the Model Bye-laws of the Society, it is necessary to constitute a Provisional Committee for a period of one year to run the affairs of the Society after its registration. Accordingly, the following Provisional Managing Committee was constituted to conduct the affairs of the Society:

Sr.	Name	Category/Constituency
1.	Sandeep Ranjan	General
2.	Ejaj Shaikh	General

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Sr.	Name	Category/Constituency
3.	Diptangushu Chatterji	General
4.	Sandeep Singh	General
5.	Vinitsingh Parihar	General
6.	Kapil Sharma	General
7.	Sanjay Kohli	General
8.	Pramod Roy	General
9.	Ravindra Kumar	General
10.	Nishikant Upadhyay	General
11.	Ranjana Nair	Woman (Reserved)
12.	Neha Sharma	Woman (Reserved)
13.	Himesh Tailor	Other Backward Class Constituency
14.	Kuldeep Puri	Vimukt Jati/Nomadic Tribes/Special Backward Category
15.	Abhishek Kamble	Scheduled Caste Constituency

Resolution Unanimously Approved.

SUBJECT NO. 4:

Granting Membership to those who have applied for membership of the Society, other than the Promoter

Resolution: The Chief Promoter stated that no member had applied for membership after the registration of the Society, and therefore, no new member was admitted to the Society in this meeting.

Resolution Unanimously Approved.

Proposer: Kuldeep Puri

Secunder: Himesh Tailor

SUBJECT NO. 5:

Accepting and approving the Statement of Accounts of Income and Expenditure prepared by the Chief Promoter of the Society for the period up to 14 days prior to the First General Body Meeting

Resolution: The Developer/Chief Promoter presented all the expenses incurred up to the registration of the Society, which was unanimously approved.

Resolution Unanimously Approved.

SUBJECT NO. 6:

Fixing the Monthly Fund (Maintenance)

Proposer: Vinit Singh Parihar

Secunder: Diptangushu Chatterji

Resolution: The Authorized Officer provided valuable guidance to the members on how to fix the monthly fund (maintenance) and how much amount should be collected from the members for various funds, such as the **Sinking Fund** and **Repair Fund**. Upon the request of the members, it was unanimously agreed that the monthly fund (maintenance) would be determined in their

Special General Body Meeting, and this was unanimously approved by all present members.

Resolution Unanimously Approved.

Proposer: Nishikant Upadhyay

Seconder: Ejaj Shaikh

SUBJECT NO. 7:

Appointment of an Auditor for the year 2024-25

Resolution: The Authorized Officer stated that, as per the approved Bye-laws of the Society and the Co-operative Act, it is mandatory to appoint an Auditor for the audit of the Society. It was further stated that the audit must be carried out only by an Auditor from the Co-operation Panel. Accordingly, the powers to select an Auditor from the panel for the audit of the Society for the period 2024-25 were given to the

Managing Committee.

Resolution Unanimously Approved.

Proposer: Sanjay Kohli

Seconder: Ranjana Nair

SUBJECT NO. 8:

Deciding on taking membership of The Thane District Co-Op. Hsg.

Federation

Resolution: The Authorized Officer present suggested that the Society should take membership of The Thane District Co-Op. Housing Federation

and explained the benefits of membership. It was noted that this Federation will provide valuable assistance to the Society in its future functioning.

Resolution Unanimously Approved.

Proposer: Neha Sharma

Secunder: Abhishek Kamble

Subject No. 9: Granting authority to any one member of the Provisional Managing Committee to call the first meeting of the Managing Committee

Resolution: All selected committee members were asked to convene the first meeting of the Provisional Committee. Since all Provisional Committee members suggested the name of

Ravindra Kumar, he was given the authority to issue the agenda of the meeting.

Resolution Unanimously Approved.

Proposer: Sandeep Singh

Secunder: Sanjay Kohli

SUBJECT NO. 10:

Any other matter with the permission of the Hon'ble Chairman

Resolution: The following resolutions were passed with the permission of the Hon'ble Chairman, based on the discussion held by the members of the Society, and the guidance provided by the Authorized Officer:

1. Since the said Managing Committee is a **Provisional Managing Committee**, its tenure shall be **one year**.
2. New members as well as new purchasers in place of original members will be **registered and admitted**.
3. **Share Certificates** will be issued to the existing members.
4. **No Objection Certificate (NOC)** for future sale/purchase will be issued to the flat owners of **Wing A and Wing B**. The Developer will issue the NOC for the unsold flats remaining.
5. The Society shall **not** take any premium from the Developer for the unsold flats, and the Society shall **not interfere** with their sale.
6. The Society shall immediately take possession of the equipment or machinery related to the facilities such as STP (Sewage Treatment Plant), OWC (Organic Waste Converter), Solar System, Rainwater Harvesting, R.G. (Recreational Ground), and other amenities, upon receiving the copy of the proceedings of this meeting. Thereafter, the Society shall maintain the same in accordance with the guidelines of the **Maharashtra Pollution Control Board (MPCB)** and **MBMC (Mira Bhayandar Municipal Corporation)**, which will help in the smooth functioning of the Society's operations.
7. The vendors appointed by the Developer shall continue for a minimum of one month. Thereafter, it will be up to the Society's decision whether to retain the same vendors or change them.

8. The Society shall accept the responsibility for maintenance and expenses **from August 15, 2025**. Until August 15, 2025, the maintenance and expenses will be borne by the Developer for the members, and the bill for the same should be submitted to the Society's Committee.
9. The **Club House** and amenities on the **38th floor of K Wing** shall be for the use of the members/flat owners of **K-Wing only**, and the entire cost of its maintenance shall be borne by the flat owners of K-Wing.

The resolutions of the Society's meeting were passed as above. The Chairman thanked all the members with their permission and declared the meeting concluded.

(Signatures and Official Seals)

Chief Promoter

J. K. Developers IRIS
A.B.I.J.K. Wing & Row
House Co-Op. Hsg. Soc.
Ltd.
Vinay Nagar, Village -
Ghodbunder, Near J.P., Mira
Road (East), Taluka &
District Thane

Sudhakar Rathod

Co-operative Officer Grade-2
Dy. Registrar Co-operative Societies,
Thane Taluka, Thane

संस्था नोंदणी नंतरची प्रथम सर्वसाधारण सभा

आज दिनांक १६/०८/२०२४ रोजी जे. के. डेव्हलपर्स आयरीस ए.बी.आय.जे.के. विंग आणि रो-हाऊस को-ऑप. हौ. सो. लि., विनय नगर, व्हिलेज घोडबंदर, जे.पी. जवळ, मिरारोड (पुर्व) ता.जि.ठाणे या संस्थेची नोंदणी नंतरची प्रथम सर्वसाधारण सभा आयोजित करण्यात आलेली असून सदर सभा गणपूर्ती अभावी त्याच ठिकाणी अर्ध्या तासानंतर सुरू करण्यात आलेली आहे. सदर सभेमध्ये खालीलप्रमाणे ठराव संमत करण्यात आले.

विषय क्र.

1: सभेकरीता अध्यक्षांची निवड करणे

ठराव: आजच्या सभेचे अध्यक्षपद श्री. अजित नागोजी जगदाळे यांनी स्विकारावे असा प्रस्ताव मांडण्यात आला व त्यास सर्वांनी एकमताने मंजुरी दिली. तदंतर श्री. अजित नागोजी जगदाळे यांनी सभेचे अध्यक्षपद स्विकारून सभेच्या कामकाजास सुरुवात केली.

ठराव सर्वानुमते मंजूर

सुचक: संदीप रंजन

अनुमोदक: संजय कोहली

विषय क्र. 2: मा.

उपनिबंधक यांनी मंजूर केलेली उपविधी स्विकारणे

ठराव: मा. उपनिबंधक सहकारी संस्था, ठाणे तालुका यांचेकडून मंजूर झालेला उपविधी व त्यातील नियमावलीबाबत उपस्थित प्राधिकृत अधिकारी श्री. सुधाकर राठोड, सहकारी अधिकारी श्रेणी-2

यांनी महत्वपूर्ण मार्गदर्शन करून सदर नियमावलीच्या अनुषंगाने कामकाज करण्यात यावे असे सर्व सभासदांना सूचित करण्यात आले. त्यास सर्वांनी एकमताने मंजूरी दिली.

ठराव सर्वानुमते मंजूर

सुचक: रविंद्र कुमार

अनुमोदक: कपील शर्मा

विषय क्र.

3: एका वर्षासाठी हंगामी व्यवस्थापक समितीची निवड करणे

ठराव: संस्थेच्या आदर्श उपविधीतील तरतुदीनुसार संस्था नोंदणी झाल्यानंतर संस्थेचे कामकाज चालविण्याकरीता एक वर्ष मुदतीकरीता हंगामी समिती स्थापन करणे आवश्यक आहे. असे प्राधिकृत अधिकारी यांनी सांगितले. त्या अनुषंगाने संस्थेचे कामकाज करणेकरीता खालीलप्रमाणे हंगामी व्यवस्थापक समिती स्थापन करण्यात आले:

अ. क्र.	नाव	प्रवर्ग / मतदार संघ
1.	संदीप रंजन	सर्वसाधारण
2.	एजाज शेख	सर्वसाधारण
3.	दिसंगूशू चटर्जी	सर्वसाधारण
4.	संदीप सिंग	सर्वसाधारण
5.	विनितसिंग परिहार	सर्वसाधारण
6.	कपील शर्मा	सर्वसाधारण
7.	संजय कोहली	सर्वसाधारण
8.	प्रमोद राँय	सर्वसाधारण
9.	रविंद्र कुमार	सर्वसाधारण

10.	निशिकांत उपाध्याय	सर्वसाधारण
11.	रंजना नायर	महिला (राखीव)
12.	नेहा शर्मा	महिला (राखीव)
13.	हिमेश टेलर	इतर मागासवर्गिय मतदार संघ
14.	कुलदीप पुरी	विमुक्त जाती/भटक्या जमाती/ विशेष मागास प्रवर्ग
15.	अभिषेक कांबळे	अनुसूचित जाती मतदार संघ

Export to Sheets

ठराव सर्वानुमते मंजूर

विषय क्र.

4: प्रवर्तका व्यतिरिक्त ज्यांनी संस्थेच्या सभासदत्वासाठी अर्ज केले आहेत त्यांना सभासद करून घेणे ठराव: संस्था नोंदणीनंतर कोणत्याही सभासदाने सभासदत्वासाठी अर्ज केलेले नाहीत असे मुख्यप्रवर्तक यांनी सांगितले. त्यामुळे कोणत्याही सभासदास या सभेमध्ये सभासद करून घेण्यात आलेले नाही.

ठराव सर्वानुमते मंजूर

सुचक: कुलदीप पुरी

अनुमोदक: हिमेश टेलर

विषय क्र.

5: संस्थेच्या मुख्यप्रवर्तकाने पहिल्या सर्वसाधारण सभेच्या अगोदरच्या 14 दिवसापर्यंतच्या कालावधीसाठी तयार केलेल्या जमाखर्चाच्या हिशोबाचे पत्रक स्विकारणे व त्यास मंजूरी देणे ठराव: संस्था नोंदणीपर्यंत झालेला सर्व खर्च विकासक/मुख्यप्रवर्तक यांनी सादर केला. त्यास सर्वानुमते मंजूरी देण्यात आली.

ठराव सर्वानुमते मंजूर

विषय क्र.

6: मासिक निधी (मेंटेनन्स) निश्चित करणे

सुचक: विनितसिंग परिहार

अनुमोदक: दिसंगूशू चटर्जी

ठराव: सभासदांनी मासिक निधी कसा निश्चित करावयाचा व कोणत्या फंडाकरीता उदा. सिंकींग फंड व रिपेअर फंड किती रक्कम सभासदाकडून जमा करावयाची याबाबत प्राधिकृत अधिकारी यांनी मोलाचे मार्गदर्शन केले. व सभासदांच्या विनंतीनुसार मासिक निधी त्यांच्या विशेष सर्वसाधारण सभेमध्ये ठरविणार असल्याचे सर्वानुमते सांगण्यात आले. व त्यास उपस्थित सर्व सभासदांनी एकमताने मंजूरी दिली.

ठराव सर्वानुमते मंजूर

सुचक: निशिकांत उपाध्याय

अनुमोदक: एजाज शेख

विषय क्र.

7: सन 2024-25 साठी लेखापरीक्षकाची नियुक्ती करणे

ठराव: संस्थेच्या मंजूर उपविधीनुसार व सहकार कायदानुसार संस्थेचे लेखापरीक्षण करणेकरीता लेखापरीक्षकाची नियुक्ती करणे आवश्यक असल्याचे व लेखापरीक्षणाकरीता सहकार पॅनलवरील लेखापरीक्षकाकडूनच लेखापरीक्षण करणे गरजेचे असल्याचे प्राधिकृत अधिकारी यांनी सांगितले. त्यानुसार संस्थेचे सन 2024-25 या कालावधीचे लेखापरीक्षण करणेकरीता नामतालिकेवरील लेखापरीक्षकाची निवड करणेचे अधिकार व्यवस्थापक समितीस देण्यात आले.

ठराव सर्वानुमते मंजूर

सुचक: संजय कोहली

अनुमोदक: रंजना नायर

विषय क्र. 8: दि ठाणे जिल्हा को-ऑप. हौ.

फेडरेशनचे सभासदत्व स्विकारणे बाबत निर्णय घेणे

ठराव: संस्थेनी दि ठाणे जिल्हा को-ऑप. हौसिंग फेडरेशनचे सभासदत्व घेण्याबाबत उपस्थित प्राधिकृत अधिकारी यांनी सूचना केली व सभासदत्वाचे फायदे सांगितले. जेणेकरून भविष्यातील कामकाजामध्ये संस्थेस सदर फेडरेशन मोलाची मदत करेल.

ठराव सर्वानुमते मंजूर

सुचक: नेहा शर्मा

अनुमोदक: अभिषेक कांबळे

विषय क्र.

9: हंगामी व्यवस्थापक समितीच्या कोणाही एका सभासदास व्यवस्थापक समितीची पहिली सभा बोलविण्याचा अधिकार देणे ठराव: हंगामी समितीची पहिली सभा बोलविण्यासाठी सर्व निवडलेल्या समिती सदस्यांना सांगण्यात आले. त्यावर सर्व हंगामी समितीच्या सदस्यांनी

रविंद्र कुमार यांचे नाव सुचविल्याने सभेचा अजेंडा काढण्यासाठी श्री. रविंद्र कुमार

यांना अधिकार देण्यात आले.

ठराव सर्वानुमते मंजूर

सुचक: संदीप सिंग

अनुमोदक: संजय कोहली

विषय क्र. 10: मा. अध्यक्षांच्या परवानगीने आयत्यावेळी येणारे विषय

ठराव: मा. अध्यक्षान्च्या परवानगीने व संस्थेच्या सभासदांनी केलेल्या चर्चेतून तसेच प्राधिकृत अधिकारी यांनी केलेल्या मार्गदर्शनानुसार खालीलप्रमाणे ठराव पारीत करण्यात आले:

1. सदरची व्यवस्थापक समिती ही हंगामी व्यवस्थापक समिती असल्यामुळे त्यांचा कालावधी एक वर्षाचा राहिल.
2. नवीन सदस्य तसेच मुळ सदस्यांच्या जागी नवीन खरेदीदारांची नोंदणी व प्रवेश दिला जाईल.
3. विद्यमान सदस्यांना भाग दाखला (Share Certificate) जारी करण्यात येतील.
4. विंग ए आणि विंग बी च्या सदनिकाधारकांना पूढील विक्री/खरेदी विक्रीसाठी नाहरकत दाखल (NOC) दिला जाईल. उर्वरित न विकलेल्या सदनिकेसाठी विकासक नाहरकत दाखला देईल.
5. संस्थेनी विकासकाचे विक्री न झालेल्या संस्थेबाबत प्रिमीयम घेवू नये. तसेच त्यांचे विक्रीसाठी संस्थेनी हस्तक्षेप करू नये.
6. सोसायटीने एसटीपी (STP), ओडब्ल्यूसी (OWC), सोलर सिस्टिम, पावसाचे पाणी साठवण (Rainwater Harvesting), आर.जी (R.G) व इतर सोई सुविधाशी संबंधित उपकरणे किंवा यंत्रसामग्रीचा ताबा या सभेच्या कार्यवाहीच्या प्रती मिळताच तात्काळ घ्यावा. आणि त्यानंतर महाराष्ट्र प्रदूषण मंडळ (MPCB) व एमबीएमसी (MBMC) मार्गदर्शक सुचनांनुसार देखभाल करावी. ज्यामुळे सोसायटीच्या कामकाजाचा सुरळीतपणे चालावा यासाठी मदत होईल.
7. विकासकाने नियुक्त केलेले विक्रेते किमान एक महिना सुरू राहतील. त्यानंतर सोसायटीने त्याच विक्रत्यांने ठेवावे अथवा बदल करावा हे त्यांच्या निर्णयावर अवलंबून राहिल.

8. 15 ऑगष्ट 2025 पासून सोसायटी देखभाल व खर्चाची जबाबदारी स्विकारेल. 15 ऑगष्ट 2025 पर्यंत देखभाल व खर्च विकासकांकडून सदस्यांसाठी केला जाईल. व त्याचे बिल सोसायटीच्या समितीकडे देण्यात यावे.

9. के विंगच्या 38 व्या मजल्यावरील क्लब हाऊस आणि सोयी-सुविधा केवळ के-विंगच्या सदस्य / सदनिका मालकांच्या वापरासाठीच असतील. व त्याच्या देखभालीचा संपूर्ण खर्च के विंगच्या सदनिका धारकांकडून केला जाईल.

वरीलप्रमाणे संस्थेच्या झालेल्या सभेमध्ये ठराव संमत करण्यात आलेले असून सभा अध्यक्षाच्या परवानगीने सर्व सभासदांचे आभार मानून सभा संपल्याचे जाहीर केले.

मुख्यप्रवर्तक

जे. के. डेव्हलपर्स आयरीस ए.बी.आय. जे. के. विंग आणि रो-हाऊस को-ऑप. हौ. सो. लि.

विनय नगर, व्हिलेज - घोडबंदर, जे.पी. जवळ, मिरारोड (पुर्व)
ता.जि.ठाणे

सुधाकर राठोड

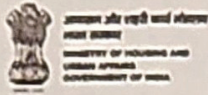
सहकारी अधिकारी श्रेणी-2

उपनिबंधक

सहकारी संस्था, ठाणे तालुका, ठाणे

1206

Ax. E



Mira Bhayandar
Municipal Corporation

स्वच्छ सर्वेक्षण
2025

ULB code - 902796



Swachhata Star Ranking CERTIFICATE

This is certify that in MBMC JURISDICTION

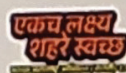
JK Iris



Society/RWA Has been awarded 3 star (*)
Star Ranking under the Swachh Bharat Mission
On the day of December 4, 2025 at
Mira Bhayandar.

Radhabinod A. Sharma, (IAS)
Municipal Commissioner and Administrator

This certificate is valid for a period of one year from the date of issue.



T.C



T.C

D.P.C.C vs Lodhi Property Co. Ltd.Etc on 4 August, 2025

Author: Pamidighantam Sri Narasimha

Bench: Pamidighantam Sri Narasimha

2025 INSC 923

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S). 757-760 OF 2013
DELHI POLLUTION CONTROL COMMITTEE

VERSUS

LODHI PROPERTY CO. LTD. ETC.

WITH

CIVIL APPEAL NO(S). 1977-2011 OF 2013

JUDGMENT

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1. Introduction.

1. The Delhi Pollution Control Committee (DPCC)¹ is in appeal against the judgment of the Division Bench of the High Court holding that it is not empowered to levy compensatory damages in exercise of powers under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981² on the ground that such an action amounts to imposition of penalty provided for in Chapters VII and VI of the respective Acts, and as such, procedure contemplated thereunder will be the only method for imposing and collecting compensatory damage.

2. Having considered the principles that govern Indian environmental laws, we have held that the environmental regulators, the Pollution Control Boards exercising powers under the Water and Air Acts, can impose and collect restitutionary or compensatory damages in the form of fixed sum of monies or require furnishing of bank guarantees as an ex-ante measure to prevent potential environmental damage. These powers are 1 DPCC is a regulatory body in the National Capital Territory of Delhi, established as a 'State Board'. These Boards are constituted under section 4 of the Water Act and under section 4 or section 5 of the Air Act, and exercise powers granted under section 33A of the Water Act and section 31A of the Air Act. Our interpretation of section 33A and 31A herein will apply to any such body established under said Acts.

2 Hereinafter referred to as the Water Act and Air Act respectively. incidental and ancillary to the empowerment under Sections 33A and 31A of the Water and Air Acts. At the same time, we have directed that the powers must be exercised as per procedure laid down by subordinate legislation incorporating necessary principles of natural justice, transparency and certainty.

2. Facts.

3. It is the case of the Delhi Pollution Control Committee that pursuant to the directions of the Ministry of Environment, Forest and Climate Change (MoEFCC) to take appropriate action against certain entities operating in violation of the environmental norms, show cause notices were issued for violation of Section 25 of the Water Act and Sections 21 and 22 of the Air Act. These entities were either residential complexes, commercial complexes or shopping malls. The show cause notices were issued on the ground that they proceeded with construction and in fact, were operating without obtaining the mandatory "consent to establish" and "consent to operate" under Section 25 of the Water Act and Section 21 of the Air Act. The show cause notices were challenged by way of 38 writ petitions before the Delhi High Court. The challenge culminated in the judgement of a single judge dated 30.09.2010 in the case of Splendor Landbase Ltd. v. DPCC³. The learned single judge considered the question as to whether a State Board can levy environmental damages in the form of fixed sums of money or require an entity to furnish a bank guarantee as a condition for grant of consent under Section 33A of Water Act and/or Section 31A of Air Act. Similar writ petitions were considered and decided by another single judge bench in Bharti Realty Ltd. v. DPCC and Anush Finlease and Construction v. DPCC on 20.07.2011 and 15.09.2011 and were disposed of in terms of the decision in Splendor Landbase Ltd. v. DPCC. The reasoning adopted in the judgement and orders passed by the Single Judges are as follows.

3. Single Judge's Judgement and Orders.

4. In *Splendor Landbase Ltd. v. DPCC* 4, the ld. single judge by his judgement dated 30.09.2010 dealt with two major issues – firstly, whether proprietors of properties over 20,000 square meters are required to obtain consent to establish and consent to operate under Water Act and Air Act independently, despite obtaining EIA Clearance from the Ministry; and secondly, whether Boards can levy penalties, fines, environmental damages in form 3 2012 (195) DLT 177.

4 Hereinafter referred to as *Splendor*.

of fixed sums of monies or call for bank guaranties as a condition to grant consent under Water and Air Acts? While the first question was answered in the affirmative, the second was answered in the negative.

4.1 It was held that the power to levy penalty is in the nature of a penal power and as such a penalty cannot be imposed without there being an enabling statutory power. For this reason, the single judge held that Board has no power to levy penalty or damage, even on the basis of the general powers under Sections 31A or 33A of the Acts. The learned Judge criticized the monetary demand as a pre-condition for grant of consent under the Acts on the ground that it has no statutory backing.

4.2 In the other batch of cases i.e. in *Bharti Realty Ltd. v. DPCC* and *Anush Finlease and Construction Ltd. v. DPCC*, decided on 12.07.2011 and 15.09.2011, the learned Single Judge was constrained to enquire into the matter in detail as writ appeals against the judgement in *Splendor* were already pending before a Division Bench. Therefore, the Single Judge allowed the writ petitions following the decision in *Splendor* and holding that the Board has no power to impose and collect compensatory damages. In these cases, the learned Judge also directed refund of the amounts collected. However, no interest was granted to the respondents as they chose to comply with the demand instead of challenging the same at the relevant point in time.

4. Impugned Order of the Division Bench.

5. The decisions of the single judges were challenged by the appellant before the Division Bench of the High Court. By the judgement impugned before us, the Division Bench upheld the findings of the Single Judge in *Splendor* that the power to issue directions under Sections 33A and 31A under the two Acts does not confer the power to levy 'penalty'. The High Court further observed that under Chapter VII and Chapter VI of the Water and Air Acts penalties can be levied only by courts and that too after taking cognizance of offences specified under the two Acts. Provided that the procedure so prescribed under the statute has to be followed mandatorily, the Division Bench held that the appellant would not be entitled to impose compensation or direct deposit of bank guarantees. The relevant portion of the Division Bench of the High Court is as follows – "37. We concur with the reasoning of the learned Single Judge in paras 58 to 64 of the impugned decision and thus do not elaborate any further, but would additionally highlight that, the power to issue directions under Section 33A of the Water Act and the power to issue directions under Section 31A of the Air Act, on their plain language, does not confer the power to levy any penalty. We would further highlight that

under Chapter VII of the Water Act and under Chapter VI of the Air Act penalties and procedure to levy the same have been set out. A perusal of the provisions under the Water Act would reveal that penalties can be levied as per procedure prescribed and only Courts can take cognizance of offences under the Act and levy penalties, whether by way of imprisonment or fine. Similar is the position under the Air Act. The legislature having enacted specific provisions for levy of penalties and procedures to be followed has specifically made the offences cognizable by Courts and the power to levy penalties under both Acts has been vested in the Courts. The role of the Pollution Control Boards is to initiate proceedings before the Court of Competent jurisdiction and no more.

40. The language of Sub-Section 5 of Section 25 of the Water Act makes it plain clear that the only solution to a situation of a building being constructed to establish an industry, operation or process without obtaining prior consent of the State Pollution Control Board is the power of the Board to serve upon the person concerned a notice imposing such conditions as might have been imposed on an application, seeking prior consent and we find that the learned Single Judge has correctly so opined and has rightly issued the direction that the only way out, pertaining to the Water Act is to permit DPCC to inspect the shopping malls and the shopping commercial complexes and if it is found that pertaining to discharge of sewage from these buildings any steps are required to prevent water pollution DPCC would be authorized to issue notices requiring the owner of the building to take steps in terms of the notice issued. Pertaining to the Air Act notwithstanding there being no similar provision, but the concept of a post decisional hearing may be made applicable with the modification that no hearing would be required inasmuch as there is no decision, but DPCC should be empowered to inspect the shopping malls and the shopping, commercial complexes and pertaining to air pollution, if the owners of the buildings do not take corrective action, DPCC would always have the power to file criminal complaints before the Courts of Competent Jurisdiction, which Courts would alone have the power to impose fine and additionally impose sentence of imprisonment upon the offending persons.

42. In a few cases, we find that since DPCC was not permitting the buildings to be occupied, under protest, the owners paid the penalty to DPCC and have immediately approached the Court seeking refund and the same has been ordered for the reason neither under the Water Act nor under the Air Act there exists any power in DPCC to levy penalty or impose conditions of furnishing bank guarantee. The decision of the learned Single Judge is correct in directing the bank guarantees to be discharged and penalties levied to be refunded for the reason the said act of DPCC is ultra-vires its power under the two statutes and the levy of penalty is without any authority of law. In the decision reported as 1997 [5] SCC 535 Mafatlal Industries Ltd. & Ors. Vs UOI & Ors., under writ jurisdiction refund can be directed where the levy is without jurisdiction and the same would include a penalty levied without any jurisdiction. In the instant case the penalty levied is unconstitutional being not sanctioned by any power vested in DPCC either under the Water Act or the Air Act. The impugned decisions where penalty levied has been directed to be refunded are upheld.”

5. Submissions.

6. Mr. Pradeep Mishra appearing on behalf of the appellant DPCC submitted that the High Court erred in holding that the State Boards are not empowered to impose environmental damages under

Sections 33A and 31A of Water and Air Acts. He has argued that the application of the principle of Polluter Pays is distinct from the requirement of authority of law to impose tax or penalty.

7. On behalf of the respondents, Mr. Ninad Laud has submitted that as per broad scheme of the Acts and also the statement of objects and reasons, State Boards are empowered to act on their own while enforcing Sections 25 and 26 and also while issuing directions under Sections 33A and 31A. However, when faced with non-compliances, recourse to judicial process is contemplated under Sections 49 and 43 of Water and Air Acts respectively. Further, neither Rule 34 of Water (Prevention & Control of Pollution) Rules 1975 nor Rule 20A of Air (Prevention & Control of Pollution) Rules 1983, while providing a mechanism to administer Section 33A and Section 31A, contemplate monetary penalties. Countering the submission of Mr. Pradeep Misra on the principle of Polluter Pays to encourage reading the power to impose and collect environmental damages under Sections 33A and 31A of the respective Acts, he would submit such an approach is impermissible as the said power is specifically and separately provided under Chapters VII and VI therein. Relying on the decision of this Court in *MC Mehta v. Kamal Nath*⁵, he would submit, after considering the scheme of penal provisions under Water Act, Air Act and Environment (Protection) Act 1986, the Supreme Court held that penalties under the Acts befall a person only after finding of guilt upon trial by a court of law. Referring to the legitimacy of State Board's action demanding bank guarantees to secure compliance with conditions, he would submit that no penalty, other than that contemplated in the statute or statutory 5 (2000) 6 SCC 213, para 13-17.

scheme can be imposed. 6 We have also heard Mr. Pinaki Misra, Senior Advocate and other learned counsel and they have strongly supported the decision of the Division Bench.

7.1 Counsel for M/s Laxmi Buildtech Pvt Ltd 7 has submitted that they have neither violated nor acted in breach of any provision of environmental laws and therefore they cannot be subjected to any penalty or criminal prosecution. Counsel for other respondents further submitted that they have deemed consent as well as EIA clearance from the Ministry. They have also submitted that imposition and collection of damages by the State Boards is outside the powers vested in them under the Water and Air Acts. 7.2 Counsel for M/s Bharti Realty Ltd has submitted that it is a settled principle of law that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and no other. 8 This principle, according to the learned counsel, squarely applies to the present case as Chapter VII and Chapter VI of the Water and Air Acts have a prescribed procedure to be followed before imposing penalties. It is further argued that the 6 State of MP v. Centre for Environment Protection Research & Development, (2020) 9 SCC

781. 8 *Chandra Kishore Jha v. Mahavir Prasad & Ors*, (1999) 8 SCC 266. role of any State Board is in the nature of a complainant and not that of an adjudicatory authority. In this vein, it is submitted that any other interpretation would render the chapter on 'Penalties and Procedures' nugatory and otiose. It is also submitted that the power to give directions under Sections 33A and 31A of the Water and Air Acts is "subject to provisions of this Act". Written submissions also refer to the recent amendments to the Water and Air Acts, empowering an Adjudicating Officer, not below the rank of Joint Secretary of Government of India or Secretary to State Government, for imposing penalties for contravention of provisions of the Acts.

6. Issue.

8. The core question in these appeals is - whether the regulatory boards can, in exercise of powers under Section 33A of the Water Act and Section 31A of the Air Act, impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an ex-ante measure towards potential environmental damage?

7. Existing Legal Regime for Pollution Control in India.

9. Under the Water Act and the Air Act, the State Boards have a broad statutory mandate to prevent, control and abate water pollution and air pollution. Under Section 17 of the Water Act, the State Boards are to shoulder enormous responsibilities and their functions are reproduced herein for ready reference -

“Section 17. Functions of State Board – (1) Subject to the provisions of this Act, the functions of a State Board shall be—

(a) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement of water pollution;

(c) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;

(d) to encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(e) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto;

(f) to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;

(g) to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;

(h) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more

especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;

(i) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;

(j) to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of scant stream flows that do not provide for major part of the year the minimum degree of dilution;

(k) to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents;

(l) to make, vary or revoke any order—

(i) for the prevention, control or abatement of discharges of waste into streams or wells;

(ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify, alter or extend any such existing system or adopt such remedial measures as are necessary to prevent, control or abate water pollution;

(m) to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;

(n) to advise the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;

(o) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government.

(2) The Board may establish or recognize a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.”

10. Section 17 of the Air Act⁹, substantially similar to its equivalent under the Water Act, also indicates the crucial 9 Section 17 of Air Act states –

17. Functions of State Boards.— (1) Subject to the provisions of this Act, and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution) Act, 1974, the functions of a State Board shall be—

(a) to plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement relating to air pollution;

responsibilities of the State Boards in discharge of their mandate. Chapter V of the Water Act and Chapter IV of the Air Act include provisions that prescribe the regulatory powers of the State Boards. These powers include the power to issue, modify or withdraw consent¹⁰, power to obtain information¹¹, power of entry and inspection¹² and power to take samples¹³.

8. Insertion of Sections 33A & 31A in Water and Air Acts.

11. In 1988, both Acts were amended. Notably, through amendments the State Boards were further empowered to give

(c) to collect and disseminate information relating to air pollution;

(d) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of air pollution and to organise a mass-education programme relating thereto;

(e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution;

(f) to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas;

(g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft: Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quantity and composition of emission of air pollutants into the atmosphere from such industrial plants;

(h) to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution;

(i) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government;

(j) to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

(2) A State Board may establish or recognise a laboratory or laboratories to enable the State Board to perform its functions under this section efficiently. 10 Sections 25, 27 of Water Act and Section 21 of Air Act 11 Section 20 of Water Act and Section 25 of Air Act 12 Section 23 of Water Act and Section 24 of Air Act 13 Section 21 of Water Act and Section 26 of Air Act directions under Section 33A of the Water Act and Section 31A 14 of the Air Act. These two provisions are identically worded. Section 33A of the Water Act is as under;

“Section 33A. Power to give directions.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

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) the stoppage or regulation of supply of electricity, water or any other service.”

12. The directions contemplated under Sections 33A and 31A of the Water and Air Acts must be in furtherance of the powers and functions of the Boards and they must be in writing. These provisions, declares that the power to issue directions will include the power to direct closure, prohibition or regulation of any 14 Section 31A of the Air Act states – 31A. Power to give directions.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions. 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) the stoppage or regulation of supply of electricity, water or any other service. industry, operation or process. Further, this power extends to directing the stoppage or regulation of supply of electricity, water or any other service. The power to give directions has been worded broadly, and it allows the Boards significant flexibility in deciding the nature of directions. The legislative intention of granting these powers through the 1988 amendment can be inferred from the Statement of Objects and Reasons of the Water Act, which reads as follows – “2. The Water Act is implemented by the Central and State Governments and the Central and State Pollution Control Boards. Over the

past few years, the implementing agencies have experienced some more administrative and practical difficulties in effectively implementing the provisions of the Act. The ways and means to remove these difficulties have been thoroughly examined in consultation with the implementing agencies. Taking into account the views expressed, it is proposed to amend certain provisions of the Act in order to remove such difficulties....

3. The Bill, inter alia, seeks to make the following amendments in the Act, namely:—

(iv) in order to effectively prevent water pollution, the penal provisions of the Act are proposed to be made stricter and bring them at par with the punishments prescribed in the Air (Prevention and Control of Pollution) Act, 1981 as amended by Act 47 of 1987;

....

(vi) it is proposed to empower the Boards to give directions to any person, officer or authority including the power to direct closure or regulation of offending industry, operation or process or stoppage or regulation of supply of services such as water and electricity;”

13. Similar objective is expressed for the amendment introduced in the Air Act. 15

14. An appeal against directions issued under Section 33A of the Water Act by the State Board can be filed before the National Green Tribunal under Section 33B, introduced in 2010¹⁶. Unlike the Water Act there is no specific Appeal provision against directions issued under Section 31A of the Air Act. This asymmetry must be addressed legislatively.

15. Offences and penalties under the two Acts, and the related procedures, are covered in Chapter VII of the Water Act and Chapter VI of the Air Act. These chapters have undergone significant and substantial amendments. Prior to the amendments, the two Acts stipulated penalties in the form of 15 Statement of Objects and Reasons for Air Act states, “2. The Air Act is implemented by the Central and State Governments and the Central and State Boards. Over the past few years, the implementing agencies have experienced some administrative and practical difficulties in effectively implementing the provisions of this Act and have brought these to the notice of Government. The ways and means to remove these difficulties have been thoroughly examined in consultation with the concerned Central Government departments, the State Governments and the Central and State Boards. Taking into account the views expressed, the Government have decided to make certain amendments to the Act in order to remove such difficulties. 3. The Bill, inter alia, seeks to make the following amendments in the Act, namely—

iv) In order to prevent effectively air pollution, the punishments provided in the Act are proposed to be made stricter.

....

(vii) It is proposed to empower the Boards to give directions to any person, officer or authority including the power to direct closure or regulation of offending establishments or stoppage or regulation of supply of services such as, water and electricity. (viii) It is proposed to empower the Boards to approach courts to obtain orders restraining any person from causing air pollution.” 16 Act 19 of 2010.

imprisonment, monetary fine or both for offences under the statute. Courts could only take cognizance of an offence if a complaint was filed by a Board or any officer authorized by it, or by any person who had given notice of the alleged offence and of his intention to make a complaint. No court inferior to that of a Metropolitan Magistrate or a Judicial magistrate of the first class can try an offence punishable under the two Acts. Be that as it may, for the present purpose we have to examine and interpret Sections 33A and 31A of the Water and Air Acts.

9. Interpretation of and for Environmental Institutions.

16. Our constitutionalism bears the hallmark of an expansive interpretation of fundamental rights. But such creative expansion is only a job half done if the depth of the remedies, consequent upon infringement, remain shallow. In other words, remedial jurisprudence must keep pace with expanding rights and regulatory challenges. It is not sufficient that courts adopt injunctory, mandatory and compensatory remedies, but our regulators also must be empowered in that regard. However, the legislative grammar must be elastic for us to infuse the regulators with power to fashion different remedies. This infusion must also be tempered with the necessary guidelines and parameters of exercise of remedial powers, failing which such infusion would aid arbitrary use. Our firm view is that remedial powers or restitutionary directives are a necessary concomitant of both the fundamental rights of citizens who suffer environmental wrongs and an equal concomitant of the duties of a statutory regulator, which are informed by Part IV A of the constitution. To that extent, the functions and powers of a regulator must be inspired by the obligation in Part IV A and Article 48 A. The State’s ‘endeavour to protect and improve the environment’ will be partial, if it does not encompass a duty to retribute.

17. Of all the duties imposed under Article 51A, the obligation to conserve and protect water and air, is perhaps the most significant, amidst our climate change crisis. The Water Act and the Air Act institutionalised all efforts and actions that need to be taken to protect air that we breathe and water that we consume by creating the Pollution Control Boards. These Boards functioning as our environment regulators are expected to act with institutional foresight by evolving necessary policy perspectives and action plans. Working with perpetual seal and succession, they are to develop and retain institutional memory so that they can act on the basis of the experience, data and information that they would have gathered and processed. Institutional expertise is critical, and these bodies are to employ human resource which have domain expertise and talent. These bodies are intended to maintain institutional integrity by taking independent and objective decisions without governmental or industrial control. These values flow naturally if there is institutional transparency and accountability. It is in this perspective that we need to interpret Section 33A of the Water Act and 31A of the Air Act.

10. Duty to Restitute v. Power to Punish and Penalise.

18. There is a distinction between an action for environmental damages for restitution or remediation and imposition of penalties or fines levied at the culmination of a punitive action. This Court in *M.C. Mehta (supra)*, while referring to the provisions of the Water Act, Air Act and the Environment Protection Act observed – “17. All the three Acts, referred to above, also contemplate the taking of the cognizance of the offences by the court. Thus, a person guilty of contravention of provisions of any of the three Acts which constitutes an offence has to be prosecuted for such offence and in case the offence is found proved then alone can he be punished with imprisonment and fine or both. The sine qua non for punishment of imprisonment and fine is a fair trial in a competent court. The punishment of imprisonment or fine can be imposed only after the person is found guilty.” “24. Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution has to pay damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender....”

19. Therefore, Indian law distinguishes between the imposition of a monetary penalty or fine, which constitutes punitive action following a determination of guilt after adherence to the statutorily prescribed procedure, and the payment of damages for restitution or remediation as compensatory relief.

20. In this context, it is important to turn to one of the key principles of Indian environmental law – the Polluter Pays principle. This principle has been a part of Indian jurisprudence since 1996. In *Indian Council for Enviro-Legal Action v. Union of India* 17, this Court held that according to the Polluter Pays principle the responsibility for repairing the damage is that of the offending industry. The Court further held that the powers of the Central Government to issue directions under Section 5 read with Section 3 of the Environment Protection Act include the power to impose costs for remedial measures -

“60. ... Section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government (or its delegate, as the case may be) to “take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment...”. Section 5 clothes the Central Government (or its delegate) with the power to issue 17 (1996) 3 SCC 212 directions for achieving the objects of the Act. Read with the wide definition of ‘environment’ in Section 2(a), Sections 3 and 5 clothe the Central Government with all such powers as are “necessary or expedient for the purpose of protecting and improving the quality of the environment”. The Central Government is empowered to take all measures and issue all such directions as are called for for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilise the amount so recovered for carrying out remedial measures. This Court can certainly give directions to the Central Government/its delegate to take all such measures, if in a given case this Court finds that such directions are warranted. ...

67. The question of liability of the respondents to defray the costs of remedial measures can also be looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the “Polluter Pays” principle. ...Thus, according to this principle, the responsibility for repairing the damage is that of the offending industry. Sections 3 and 5 empower the Central Government to give directions and take measures for giving effect to this principle. In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment (Protection) Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, RPCB or such other agency or authority, as they think fit.” (emphasis added)

21. Subsequently, the Court in *Vellore Citizens’ Welfare Forum v. Union of India*¹⁸, has held that the liability for environmental damage includes both a compensatory aspect and a restorative or remedial aspect-

“12. ... The “Polluter Pays Principle” as interpreted by this Court means that the absolute liability for harm to the 18 (1996) 5 SCC 647 environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of “Sustainable Development” and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.” (emphasis added)

22. Application of the Polluter Pays principle not only includes payment for restoring the damaged environment, taking remedial action to deal with the damage and compensating for the direct harm caused, but also for avoiding pollution. In *Research Foundation for Science (18) v. Union of India*¹⁹, this Court held -

“29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case.” (emphasis added)

23. The Court further held that the observations of the Court in *Deepak Nitrite Ltd. v. State of Gujarat*²⁰ that “mere violation of the law in not observing the norms would result in degradation of environment would not be correct” were confined to the facts of that 19 (2005) 13 SCC 186.

20 (2004) 6 SCC 402 case. The Court clarified that the actual degradation of the environment is not a necessary condition for the application of polluter pays principle, as long as the offending activities have the potential of degrading the environment -

“30...The decision also cannot be said to have laid down a proposition that in the absence of actual degradation of environment by the offending activities, the payment for repair on application of the polluter-pays principle cannot be ordered. The said case is not relevant for considering cases like the present one where offending activities have the potential of degrading the environment. In any case, in the present case, the point simply is about the payments to be made for the expenditure to be incurred for the destruction of imported hazardous waste and amount spent for conducting tests for determining whether it is such a waste or not...” (emphasis added)

24. The distinction between a punitive action and a direction to pay environmental damages was made by the National Green Tribunal in *State Pollution Control Board, Odisha v M/s Swastik Ispat Pvt Ltd and Others*²¹. The Tribunal in this case was considering the legality of forfeiture of bank guarantees in case a defaulting industry did not comply with the regulatory conditions within the stipulated timeframe. The Tribunal expressly considered the opinion of the High Court in the impugned judgment before us today and held -

“45. It is evident from the above facts and the reasoning that there was actual levy of penalty or damages by the DPCC and 21 2014 SCC OnLine NGT 13.

it was in consequence of such imposition of penalty/damages that the Units were called upon to furnish bank guarantees for granting of consent. In other words, bank guarantee was required to be furnished in furtherance to the imposition of a penalty or damages in that case. It was not an act dehors the imposition of penalty and had the element of punitive action. In the present case, it is not a consequence of a punitive or penal action but is in exercise of the powers vested in the Board in relation to recalling the conditions of consent and ensuring their implementation while also making compensatory provision for remedying the apprehended wrong to the environment. In the cases in hand, the Board has not imposed any penalty upon the units but has granted consent to them on certain conditions, none of which is punitive. They squarely fall within the power of the Board to prevent and control pollution in consonance with the scheme of the Acts concerned. Thus, on facts, the judgments of the High Court in *Splendor* (supra) do not have any application to the present case. In any case, we are of the considered view that asking for a bank guarantee as an interim measure for due performance of the conditions of the consent order being compensatory in nature, is not punitive.

46. We have already noticed above that there is a clear distinction between a penal and a compensatory provision. In such matters, the paramount question that would normally fall for determination before a court or tribunal would be whether the action contemplated is penal or compensatory. This issue shall have to be decided with reference to the facts of the case, the provisions of the law applicable and the intent of the authority concerned. Once it falls in the ‘compensatory’ field, then it will necessarily be beyond the purview of penalty....” (emphasis added)

25. In *Swastik Ispat*, the Green Tribunal correctly interpreted Sections 33A and 31A of the Water and Air Acts. The judgment of the High Court in *Splendor* had not yet been taken up or considered by this Court at that time, the Tribunal had to distinguish the facts of *Splendor* to arrive at its own conclusion. In view of our reasoning and interpretation of Sections 33A and 31A of the Water and

Air Acts, we have no hesitation to hold that the Green Tribunal is correct in its approach.

26. More recently, in T.N. Godavarman Thirumulpad, In Re v. Union of India²², this Court while considering the issue of illegal construction in the Corbett Tiger Reserve drew the distinction between action against persons violating the law and measures for restoration of the environmental damage. The Court held -

“173. ... However, the principle of restoration of damaged ecosystem would require the States to promote the recovery of threatened species. We are of the considered view that the States would be required to take steps for the identification and effective implementation of active restoration measures that are localised to the particular ecosystem that was damaged. The focus has to be on restoration of the ecosystem as close and similar as possible to the specific one that was damaged.

175. We find that, bringing the culprits to face the proceedings is a different matter and restoration of the damage already done is a different matter. We are of the considered view that the State cannot run away from its responsibilities to restore the damage done to the forest. The State, apart from preventing such acts in the future, should take immediate steps for restoration of the damage already done; undertake an exercise for determining the valuation of the damage done and recover it from the persons found responsible for causing such a damage.” (emphasis added)

11. Principles.

27. Based on a review of precedents on this issue, the following legal position emerges – 22 (2025) 2 SCC 641 I. There is a distinction between a direction for payment of restitutionary and compensatory damages as a remedial measure for environmental damage or as an ex-ante measure towards potential environmental damage on the one hand; and a punitive action of fine or imprisonment for violations under Chapters VII of the Water Act and VI of the Air Act on the other hand.

II. If directions in furtherance of restitutionary and compensatory measures are issued, these are not to be considered as punitive in nature. Punitive action can only be taken through the procedure prescribed in the statute for example under chapters VII and VI of the Water and Air Acts respectively.

III. Indian environmental law has assimilated ²³ the principle of Polluter Pays and there is also a statutory incorporation of this principle in our laws. ²⁴ The invocation of this principle is triggered in the situations²⁵; i) when an established threshold or prescribed requirement is exceeded or ²³ Indian Council for Enviro-Legal Action (supra n.12); Vellore (supra n 13). ²⁴ Section 20. Tribunal to apply certain principles- 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.

²⁵ Loveleen Bhullar, ‘The Polluter Pays Principle: Scope and Limits or Judicial Decisions’; in Shibani Ghosh (ed.), Indian Environmental Law (Orient BlackSwan 2019). breached, and it does result in environmental damage, ii) when an established threshold or prescribed requirement is not

exceeded or breached, nevertheless the act in question results in environmental damage and also iii) when a potential risk or a likely adverse impact to the environment is anticipated, irrespective of whether or not prescribed thresholds or requirements are exceeded or breached. IV. Environmental regulators have a compelling duty to adopt and apply preventive measures irrespective of actual environmental damage. Ex-ante action shall be taken by these regulators and for this purpose a certain measure in exercise of powers under Sections 33A and 31A of the Water and Air Acts is necessary.

V. The powers of the Boards under Sections 33A and 31A of the Water and Air Acts are identical to that of Section 5 of the Environment Protection Act. Under Section 5, the Central Government or its delegate has the power to issue directions to the polluting industry to pay certain amounts and utilise the said fund for carrying out remedial measures. The Boards are empowered to take similar actions under Sections 33A and 31A of the Acts.

28. Having considered the principles that govern our environmental laws and on interpretation of Sections 33A and 31A of the Water and Air Acts, we are of the opinion that that the Division Bench of the High Court was not correct in restrictively reading powers of the Boards. We are of the opinion that these regulators in exercise of these powers can impose and collect, as restitutionary or compensatory damages fixed sum of monies or require furnishing bank guarantees as an ex-ante measure towards potential or actual environmental damage.

29. There is no doubt that Section 33A of the Water Act and Section 31A of the Air Act give the State Boards powers to issue necessary directions for environmental restoration, remediation and compensation and for the payment of costs for the same. The National Green Tribunal's judgment in Swastik Ispat correctly identified the Boards powers to issue directions for payment of environmental damages under Section 33A of the Water Act and the Section 31A of the Air Act. A restrictive interpretation which fails to differentiate between environmental damages and punitive action significantly encumbers the Boards ability to discharge its duties.

30. The Board's powers under Section 33A of the Water Act and Section 31A of the Air Act have to be read in light of the legal position on the application of Polluter Pays principle as formulated and explained. This means that State Board cannot impose environmental damages in case of every contravention or offence under the Water Act and Air Act. It is only when the State Board has made a determination that some form of environmental damage or harm has been caused by the erring entity, or the same is so imminent, that the State Board must initiate action under Section 33A of the Water Act and Section 31A of the Air Act.

31. At this stage, we must also take note of the recent 2024 amendments²⁶ to the Water and Air Acts. Two major changes relevant for our consideration are that of decriminalisation²⁷ and introduction of the office of "Adjudicatory Officer"²⁸. Even after the 26 The Water (Prevention and Control of Pollution) Amendment Act, 2024, Jan Vishwas (Amendment of Provisions) Act, 2023.

Section 41 in the erstwhile Water Act has been substituted by sections 41 and 41A, whereby contravention of directions issued under section 20 (for obtaining information), 32 (for imposing

emergency measures in case of pollution), 33 (for restraining apprehended pollution) or 33A would now be punishable by penalty alone; thereby replacing the earlier penal framework comprising of imprisonment and fine. Similar amendments done for section 42 (penalty for certain acts), section 43 for contravention of directions under section 24 (prohibiting use of stream or well), section 44 (prohibiting alteration of meter, etc.), and section 45A (residuary). Correspondingly, under the Air Act criminal liability under section 37 for contravention of directions under section 22 (restricting emission beyond standards) or section 31A has been restricted to fine alone. Similar amendments have been brought in section 38 and 39 (residuary). Punishment for imprisonment has been retained only for violation of section 21 and failure to pay penalty or additional penalty under section 39D. In the Water Act, section 45B puts in place a new office by the title of 'Adjudicating Officer', who would be an officer not below the rank of Joint Secretary to the Centre or Secretary to the State, appointed by the Central Government. Adjudicating Officer is empowered to inquire amendments, in our opinion, there is no conflict between the powers of the State Boards to direct payment of environmental damages under Sections 33A and 31A of the Water and Air Acts and the powers of the Adjudicating Officer to impose penalties under Chapter VII of the Water Act and Chapter VI of the Air Act. The decriminalization of offences under these Chapters has not removed the punitive nature of actions that can be taken under them. There remains a clear distinction between the nature of directions that the State Boards can issue under Sections 33A and 31A of the Water and Air Acts for payment of environmental damage and the determination by Adjudicating Officers. The former is compensatory in nature and will be resorted to when remedial measures are being undertaken to restore the degraded environment or pollution caused. The latter is a penalty for an offence under the law and is imposed with the objective of punishing the offender. This penalty collected here will not be specifically directed towards the restoration of the degraded environment (for instance, to decontaminate a pond that has been and impose penalties under sections 41, 41A, 42, 43, 44, 45A and 48. Appeal against such imposition lies before the National Green Tribunal as per section 45C. The Adjudicating Officer is further empowered to file a complaint for cognizance under section 49. Corresponding additions have been made under the Air Act as well under sections 39A (Adjudicating Officer), 39B (Appeal to NGT) and 43 (Cognizance of offences). polluted due to discharge of untreated sewage). It will be deposited in the Environmental Protection Fund that is to be set up under Section 16 of the Environment (Protection) Act. According to Section 16(3) of the EP Act, the Fund shall be used for, (a) the promotion of awareness, education and research for the protection of environment; (b) the expenses for achieving the objects and for purposes of the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981) and under this Act; and (c) such other purposes, as may be prescribed.

A. Board's Responsibility to Choose Appropriate Course of Action.

32. Given their broad statutory mandate and the significant duty towards public health and environmental protection the Boards must have the power and distinction to decide the appropriate action against a polluting entity. It is essential that the Boards function effectively and efficiently by adopting such measures as is necessary in a given situation. The Boards can decide whether a polluting entity needs to be punished by imposition of penalty or if the situation demands immediate restoration of the environmental damage by the polluter or both.

B. Powers Must Be Guided by Transparency and Non- Arbitrariness.

33. While we hold that the Boards have the power to direct the payment of environmental damages, we make it clear that this power must always be guided by two overarching principles. First, that the power cannot be exercised in an arbitrary manner; and second, the process of exercising this power must be infused with transparency.

34. This Court has underscored the importance of strong institutional frameworks in environmental governance that are effective, accountable and transparent. In *Bengaluru Development Authority v. Sudhakar Hegde*²⁹, this Court held -

“95. The protection of the environment is premised not only on the active role of courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision-making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognised value under Article 21 of the Constitution, proper structures for environmental decision- making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place.” (emphasis added) 29 (2020) 15 SCC 63

35. To ensure that the Boards impose restitutionary and the compensatory environmental damages in a fair transparent, non- arbitrary manner, with procedural certainty, necessary subordinate legislation in the form of rules and regulations must be notified. This shall include methods by which environmental damage is determined, and the consequent quantum of damages are assessed. They may also incorporate certain basic principles of natural justice for fairness in action. At present environmental damages are being levied by the Boards on the basis of certain guidelines issued by the Central Pollution Control Board in its document “General framework for imposing environmental damage compensation” issue in December, 2022. These guidelines seem to have been issued pursuant to the directions of the NGT.³⁰ It is important that these guidelines are reviewed thoroughly and issued in the form of Rules and Regulations. This will enable declaration of a law that applies and ensures its recognition and easy implementation.

36. These Rules must also create enabling framework for citizens to file complaints about environmental damage. Public participation in environmental protection has assumed great importance with climate change threatening to drastically disrupt our way of living. Boards, being the first line of defence against polluting activities, must provide easy accessibility and encourage public participation in their function and decision making.

37. While we have reversed the decision of the High Court on the principle of law and hold that the environmental regulators, the Pollution Control Boards, can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an ex-ante measure towards potential environmental damage in exercise of powers under Sections 33A and 31A of the Water and Air Acts, we issue the following consequential directions.

38. In view of the fact that the show cause notices in these cases relate to the year 2006 and those show cause notices were set- aside by the Single as well as by the Division Benches of the High Court, we are of the opinion that no purpose will be served in reviving the said show cause notices at this point of time. In the facts and circumstances of the case while we allow the appeal on the principle of law there shall not be any consequential direction for reviving the show cause notices which have been set-aside concurrently by the Single as well as by the Division Bench of the High Court. If certain amounts have been collected on the basis of the said show cause notices they shall be returned by DPCC within a period of six weeks from the date of this order, and if amounts are not deposited or collected the appellant, DPCC shall not take any further action.

39. For the reasons stated above:

(a) we allow these appeals and set aside the judgement and order dated 23.01.2012, passed by the Division Bench of the High Court of Delhi to the extent of declaration of law but direct that the show cause notices that have been set aside by the High Court shall not be revived.

(b) we direct that the Pollution Control Boards can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an ex-ante measure towards potential environmental damage in exercise of powers under Sections 33A and 31A of the Water and Air Acts.

(c) it is further directed that the power to impose or collect restitutionary or compensatory damages or the requirement to furnish bank guarantees as an ex-ante measure under Sections 33A and 31A of the Water and Air Acts shall be enforced only after detailing the principle and procedure incorporating basic principles of natural justice in the subordinate legislation.

.....J. [PAMIDIGHANTAM SRI NARASIMHA]J.
[MANOJ MISRA] NEW DELHI;

AUGUST 04, 2025

2025 Supreme(SC) 1287

2025 INSC 1060 ; 2025 LiveLaw(SC) 863 ; 2025 KHC(Online) 6760

SUPREME COURT OF INDIA
 MANOJ MISRA, UJJAL BHUYAN, JJ.
 M/s. Triveni Engineering And Industries Ltd. – Appellant
 VERSUS
 State Of Uttar Pradesh & Ors. – Respondent
 Civil Appeal Nos. 8119-8120 of 2022
 Decided On : 01-09-2025

Principles of natural justice must be followed in administrative decisions, granting parties the right to contest allegations, particularly when sanctions affect them materially.

Subject: Environmental Law - Pollution Control

NGT - environmental violations - natural justice - untreated effluent - compensation - principles of natural justice - water pollution - judicial review - statutory procedures - adjudication

Act Referred :

CRIMINAL PROCEDURE CODE: S.195

INDIAN PENAL CODE: S.196

NATIONAL GREENS TRIBUNAL ACT: S.19(1), S.22

SECURITIES AND EXCHANGE BOARD OF INDIA PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKETS REGULATIONS: Reg.9

WATER PREVENTION AND CONTROL OF POLLUTION ACT: S.21, S.22

(A) National Green Tribunal Act, 2010 - Section 22 - Water (Prevention and Control of Pollution) Act, 1974 - Sections 21 and 22 - Appeal against orders of NGT for compensation due to environmental violations involving untreated effluent discharge - NGT found the appellant engaged in illegal disposal of untreated effluent, requiring assessment of past violations and compensation; compensation of Rs. 18 crores imposed based on annual turnover without due process leading to challenges on grounds of natural justice. (Paras 2-34)

(B) Principles of Natural Justice - Violation of principles of natural justice due to non-inclusion of appellant as a party; failure to provide opportunity for hearing or contesting findings of joint committee; procedures outlined in Sections 21 and 22 must be adhered to prior to imposing penalties. (Paras 6, 19, 30)

(C) The NGT must conduct its adjudications while ensuring adherence to statutory procedures - bypassing established methods results in unlawful outcomes; judicial review necessitates transparency and fairness in adjudicatory processes. (Paras 30-34)

Cases Referred:

A.K. Kraipak Vs. Union of India, (1969) 2 SCC 262 [Para 21] - Referred

S.N. Mukherjee Vs. Union of India,.,(1990) 4 SCC 594 [Para 22] - Referred

Municipal Corporation of Greater Mumbai Vs. Ankita Sinha,., 2021 SCC Online SC 1298 : 2021 Supreme(SC) 598 [Para 24] - Referred- [Para 28]

T. Takano Vs. Securities and Exchange Board of India,.,(2022) 8 SCC 162 [Para 25] - Referred

State Bank of India Vs. Rajesh Agarwal,.,(2023) 6 SCC 1 [Para 26] - Referred- [Para 23]

Kantha Vibhag Yuva Koli Samaj Parivartan Trust Vs. State of Gujarat,.,(2023) 13 SCC 525 [Para 27] - Referred

Sanghar Zuber Ismail Vs. Union of India,.,(2021) 17 SCC 827 [Para 27.1] - Referred

Grasim Industries Limited Vs. State of Madhya Pradesh,.,(2024) SCC Online SC 3538 : 2024 Supreme(SC) 1129 [Para 28] - Referred- [Para 28]

Delhi Pollution Control Committee Vs. Lodhi Property Company Limited,., 2025 SCC OnLine SC 1601 : 2025 Supreme(SC) 1143 [Para 29] - Referred

Advocates appeared:

For the Appellant(s) : Mr. Kavin Gulati, Sr. Adv. Mr. Mahesh Agarwal, Adv. Mr. Ruchir Ranjan Rai, Adv. Mr. Ankur Saigal, Adv. Mr. Prateek Kumar, Adv. Mr. Arshit Anand, Adv. Ms. Vidisha Swarup, Adv. Mr. Naman Gupta, Adv. Mr. E. C. Agrawala, AOR

For the Respondent(s): Mr. Sudeep Kumar, AOR Mr. Pradeep Misra, AOR

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JUDGMENT

UJJAL BHUYAN, J.

These two civil appeals filed under **Section 22** of the National Green Tribunal Act, 2010 are directed against orders dated 15.02.2022 and 16.09.2022 passed by the National Green Tribunal, Principal Bench, New Delhi ('NGT' for short) in Original Application No. 71/2021 (Chandra Shekhar Vs. State of Uttar Pradesh).

2. By the order dated 15.02.2022, NGT held that the project proponent (appellant herein) had violated the environmental norms which included illegal disposal of untreated effluent, dilution at outlet with fresh water to conceal real status, absence of flow meter at boiler/mill house to avoid monitoring, absence of record of oil and grease stored and absence of Effluent Treatment Plant (ETP) logbook. Thereafter, NGT observed that the joint committee needed to assess the past violations and recover compensation in accordance with law having regard to the nature of the violation, period of violation, cost of remediation and turnover of the project proponent (appellant). The joint committee was directed to submit a supplementary report in this regard.

2.1. By the second order dated 16.09.2022, NGT considered the supplementary report filed by the joint committee on 10.08.2022 and held that compensation of Rs. 18 crores at the rate of 2 percent of annual turnover would be justified. It was directed that the amount may be deposited by the project proponent (appellant) with the District Magistrate, Muzaffarnagar, within one month to be utilized for restoration of the environment.

3. At the outset, a brief recital of facts is considered necessary.

4. Appellant i.e. M/s. Triveni Engineering and Industries Limited is a public limited company incorporated under the Companies Act, 1956. It is engaged in diverse business activities including manufacture of sugar. It is stated that appellant has seven sugar manufacturing units across the State of Uttar Pradesh.

4.1. In the year 1952, appellant under its earlier name, Ganga Sugar Corporation Limited, which was incorporated under the Companies Act, 1913, had acquired the sugar manufacturing unit at village Sheikhpura, Khatauli, Muzaffarnagar District in the State of Uttar Pradesh (sugar mill). It is stated that the sugar mill is a functional unit, having all the necessary permissions as required under the applicable statutes.

4.2. It appears from the record that in the month of March, 2021, respondent No. 2 filed a complaint before the NGT which was registered as Original Application No. 71/2021 (O.A. No. 71/2021) alleging that the sugar mill of the appellant was discharging untreated waste in a particular drain resulting in contamination of ground water in an area of about one and a half kilometer around the sugar mill having depth upto 50 metres.

4.3. By order dated 22.03.2021, NGT constituted a joint committee of Central Pollution Control Board (CPCB), Uttar Pradesh Pollution Control Board (UPPCB) and District Magistrate (DM), Muzaffarnagar. The joint committee was directed to conduct inspection and thereafter to file status report within two months.

4.4. It appears that the sugarcane crushing season for the year 2020-21 came to an end on 22.05.2021. Joint committee in its report dated 02.07.2021 stated that because of various reasons including conclusion of the sugarcane crushing season and the sugar mill remaining closed on account of the covid pandemic, inspection could not be carried out and prayed for further time to carry out fresh inspection.

4.5. Thereafter, regional office of UPPCB, Muzaffarnagar carried out inspection of the sugar mill and the area around it on 13.09.2021 and observed that no contamination was found in the ground water samples. However, it was observed that further investigation could be carried out when the industry become operational during the next crushing season.

4.6. O.A. No. 71/2021 was heard on 21.09.2021. NGT on perusal of the report declared that it was not satisfied with the stand of the State PCB. NGT was of the view that there was no justification for carrying out inspection when the sugar mill was not functional due to off season. NGT, therefore, directed the joint committee to conduct inspection when the unit was functional and thereafter to furnish a report to it on or before 15.12.2021. It was clarified that the report should indicate status of compliance with the standards as prior to the season, quality of treated effluence and utilization as per protocol/agreement with the users/farmers, further indicating that it should be mentioned whether effluents were reaching any drain leading to river/waterbody with direction to check the quality of ground water as per parameters relevant to the industry in question, particularly fluoride etc. Reference was made to an order dated 01.09.2021 passed by the NGT in O.A. No. 539/2019 (Adil Ansari Vs. M/s. Dhampur Sugar Mills Limited) wherein it was directed that ETPs must continue to run for maintenance of bio-mass even during the off season.

4.7. Pursuant to the aforesaid order dated 21.09.2021, the joint committee conducted inspection on 08.12.2021 and submitted report dated 11.01.2022. After extensively referring to the observations, conclusions and recommendations of the joint committee, NGT passed the first impugned order dated 15.02.2022 observing that the report showed violation of the environmental norms by the project proponent (appellant), such as, illegal disposal of untreated effluents etc. while stating that such violation was required to be remedied in terms of the recommendations made in the report. For the past violations, the joint committee was directed to assess the compensation in accordance with law, having regard to the nature of violation, period of violation, cost of remediation and turn over of the project proponent. Joint committee was further directed to submit a supplementary report with copy to the project proponent (appellant) for its response.

4.8. Pursuant to the aforesaid directions, supplementary report was filed by the joint committee on 10.08.2022 whereafter the matter was taken up for hearing on 16.09.2022. NGT recorded that no response was filed by the project proponent (appellant). NGT referred to the report which mentioned that compensation amounts to Rs. 34,20,000.00 for 114 days of violation at the rate of Rs. 30,000.00 per day which works out to Rs. 18 crores at the rate of 2 percent of the annual turnover of Rs. 900 crores. After hearing the learned counsel for the UPPCB, NGT was of the view that having regard to the established illegal discharge of untreated effluents, dilution at the outlet to conceal the real status, absence of monitoring, absence of record of oil and grease stored and ETP logbook, compensation of Rs. 18 crores at the rate of 2 percent of annual turnover would be justified. It was ordered vide the second impugned order dated 16.09.2022 that the compensation recovered may be utilized for restoration of the environment. Project proponent (appellant) was directed to deposit the aforesaid amount with the District Magistrate, Muzaffarnagar within one month. The compensation amount was directed to be utilized within six months in terms of the action plan to be prepared by the joint committee, clarifying that UPPCB would be the nodal agency for coordination and compliance.

5. Aggrieved by the aforesaid orders dated 15.02.2022 and 16.09.2022, appellant has preferred the related appeals. By order dated 02.11.2022, permission to file appeal was granted and delay was condoned. Thereafter, notice was issued. This Court also passed an interim order staying the operation of the impugned orders dated 15.02.2022 and 16.09.2022 so far as imposing compensation on the appellant.

6. Learned senior counsel for the appellant submits that the impugned orders dated 15.02.2022 and 16.09.2022 are non est in the eye of law in as much as those orders were passed by the NGT in complete violation of the principles of natural justice. Though the entire allegations in O.A. No. 71/2021 were directed against the appellant and though the impugned orders have adversely affected the appellant yet appellant was not made a party to the proceedings in O.A. No. 71/2021. NGT failed to appreciate that the appellant was a necessary party and without issuing notice and giving opportunity of hearing to the appellant, no adverse order against the appellant such as the ones dated 15.02.2022 and 16.09.2022 could have been passed. That being the position, not only the impugned orders but also the entire proceedings in O.A. No. 71/2021 being in absolute violation of the principle of audi alteram partem are liable to be set aside and quashed on this ground alone.

6.1. Learned senior counsel asserts that no opportunity of hearing, not to speak of any fair opportunity of hearing, was afforded to the appellant before rendering the findings vide the impugned orders dated 15.02.2022 and 16.09.2022.

6.2. Adverting to the reports of the joint committee dated 11.01.2022 and 10.08.2022, learned senior counsel submits that findings recorded in the reports are scientifically not possible. Those are materially different from the readings shown by the data retrieved and recorded by the inspection team during the inspection on 08.12.2021. The joint committee relied upon the reports prepared by third party laboratories which were based on erroneous data. As a result, there are glaring contradictions in the above reports.

6.3. Learned senior counsel also questioned the methodologies adopted by the joint committee in carrying out the inspection and thereafter in submitting the reports. According to him, NGT and the joint committee gave a complete go-bye to the procedure laid down under Sections 21 and 22 of the Water (Prevention and Control of Pollution) Act, 1974. That apart, the reports of the joint committee suffered from factual mistakes in as much as appellant has been maintaining ETP logbook at all times which were provided to the joint committee officials when they had visited the sugar mill for inspection. Likewise, boiler ash records were also maintained. Had an opportunity of hearing being given to the appellant, it could have explained its position qua the joint committee reports. NGT accepted the erroneous reports of the joint committee without subjecting the same to further scrutiny by permitting the appellant to have its say in the matter.

6.4. Learned senior counsel also referred to the provisions of Section 19(1) of the National Green Tribunal Act, 2010 which states that though the NGT shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, it shall be guided by the principles of natural justice. There is clear infraction of Section 19(1) of the National Green Tribunal Act, 2010 in the present case which has vitiated the impugned orders.

6.5. Summing up his arguments, learned senior counsel submitted that the impugned orders are wholly untenable in law as well as on facts and those are as such liable to be set aside.

7. Learned senior counsel for the respondents on the other hand has supported the impugned orders passed by the NGT. It is submitted that without treatment of the effluent, water was being discharged from the sugar mill of the appellant; the same was being released into the drain which has contaminated the ground water of the area in and around the sugar mill where about 10 to 15 thousand people reside. The entire population is thus exposed to the polluted water and resultant health hazards.

7.1. Learned senior counsel submits that NGT took cognizance of this alarming situation and constituted the joint committee to carry out necessary inspection. Joint committee carried out inspection in a scientific manner and thereafter submitted reports to the NGT. The reports being prepared by a committee of experts was rightly accepted by the NGT. Based on the observations and conclusions reached by the joint committee, NGT passed the impugned orders which calls for no interference.

7.2. Learned senior counsel submits that principles of natural justice cannot be applied as a straight jacket formula. NGT was careful enough to direct the joint committee to furnish copies of its reports to the project proponent (appellant). Appellant was, therefore, very much aware of the contents of the two reports, yet it did not contest the same before the NGT. That being the position, the contentions advanced on behalf of the appellant are without any substance.

7.3. He finally submits that the civil appeals being devoid of merit are, therefore, liable to be dismissed.

8. Submissions made by learned counsel for the parties have received the due consideration of the Court.

9. At the outset, it would be apposite to refer to some of the relevant statutory provisions.

10. The Water (Prevention and Control of Pollution) Act, 1974 (briefly 'the Water Act' hereinafter) is an act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment with a view to carrying out the purposes aforesaid, of pollution control boards for the prevention and control of water pollution, for conferring on and assigning to such boards, powers and functions relating thereto and for matters connected therewith. Section 2 is the definition clause. Section 2(dd) defines 'outlet' to include any conduit, pipe or channel, open or closed, carrying sewage or trade effluent or any other holding arrangement which causes, or is likely to cause, pollution.

10.1. The expression 'pollution' is also defined. As per Section 2(e), 'pollution' means contamination of water. Section 2(e) reads thus:

“pollution” means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.

10.2. 'Sewage effluent' has been defined in Section 2(g) and means effluent from any sewerage system or sewage disposal works and includes sullage from open drains. Section 2(gg) defines 'sewer' to mean any

conduit pipe or channel, open or closed, carrying sewage or trade effluent.

10.3. 'Stream' has been defined in Section 2(j) and as per the said definition, stream includes:

- (i) river;
- (ii) water course (whether flowing or for the time being dry);
- (iii) inland water (whether natural or artificial);
- (iv) sub-terranean waters;
- (v) sea or tidal waters to such extent or, as the case may be, to such point as the State Government may, by notification in the Official Gazette, specify in this behalf.

10.4. 'Trade effluent' has been defined in Section 2(k) in the following manner:

"trade effluent" includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any industry, operation or process or treatment and disposal system, other than domestic sewage.

10.5. Section 21 of the Water Act is included in Chapter V which deals with prevention and control of water pollution. Sub-section (1) of Section 21 empowers the State Pollution Control Board or any officer authorized by it to take samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into such stream or well for the purposes of analysis. Sub-section (2) however clarifies that the result of any analysis of a sample of any sewage or trade effluent taken under sub-section (1) shall not be admissible as an evidence in any legal proceedings unless the provisions of sub-sections (3), (4) and (5) are complied with. Sub-sections (1) and (2) of Section 21 are as follows:

21. Power to take samples of effluents and procedure to be followed in connection therewith. —

- (1) A State Board or any officer empowered by it in this behalf shall have power to take for the purpose of analysis samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well.
- (2) The result of any analysis of a sample of any sewage or trade effluent taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3), (4) and (5) are complied with.

10.6. As noticed above, analysis of any sample of any sewage or trade effluent taken under sub-section (1) would not be admissible as a piece of evidence in any legal proceedings unless the procedure contemplated under sub-sections (3), (4) and (5) are complied with. Let us therefore take note of the provisions contained in sub-sections (3), (4) and (5) of Section 21 which are extracted as under:

* * * * *

(3) Subject to the provisions of sub-sections (4) and (5), when a sample (composite or otherwise as may be warranted by the process used) of any sewage or trade effluent is taken for analysis under sub-section (1), the person taking the sample shall—

- (a) serve on the person in charge of, or having control over, the plant or vessel or in occupation of the place (which person is hereinafter referred to as the occupier) or any agent of such occupier, 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, divide the sample into two parts;
- (c) cause each part to be placed in a container which shall be marked and sealed and shall also be signed both by the persons taking the sample and the occupier or his agent;
- (d) send one container forthwith,—
 - (i) in a case where such sample is taken from any area situated in a Union Territory, to the laboratory established or recognised by the Central Board under Section 16; and
 - (ii) in any other case, to the laboratory established or recognised by the State Board under Section 17;
- (e) on the request of the occupier or his agent, send the second container,—
 - (i) in a case where such sample is taken from any area situated in a Union Territory, to the laboratory established or specified under sub-section (1) of Section 51; and
 - (ii) in any other case, to the laboratory established or specified under sub-section (1) of Section 52.
- (4) When a sample of any sewage or trade effluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3) and the occupier or his agent wilfully absents himself, then,—
 - (a) the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of sub-section (3) and such person shall inform the Government analyst appointed under sub-section (1) or sub-section (2), as the case may be, of Section 53, in writing about the wilful absence of the occupier or his agent; and
 - (b) the cost incurred in getting such sample analysed shall be payable by the occupier or his agent and in case of default of such payment, the same shall be recoverable from the occupier or his agent, as the case may be, as an arrear of land revenue or of public demand:

Provided that no such recovery shall be made unless the occupier or, as the case may be, his agent has been given a reasonable opportunity of being heard in the matter.

 - (5) When a sample of any sewage or trade effluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent a notice under clause (a) of sub-section (3) and the occupier or his agent who is present at the time of taking the sample does not make a request for dividing the sample into two parts as provided in clause (b) of sub-section (3), then, the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause
 - (d) of sub-section (3).

10.7. As can be seen from the above, the person who is taking the sample is required to serve on the person in charge of or having control over the plant or vessel etc. a notice of his intention to have the sample analyzed; take and divide the sample into two parts in the presence of the occupier or his agent. One container after being sealed and signed by both the persons taking the sample and the occupier or his agent is taken to the laboratory established or recognized by the pollution control board (whether central or state) and send the other container

in the same manner to the laboratory established under Section 51(1) in case of a union territory and Section 52(1) in any other case. In case the occupier or his agent willfully absents himself from the aforesaid process, then the person taking the sample shall inform the government analyst in writing about the willful absence of the occupier or his agent.

10.8. Section 22 of the Water Act is concerned with reports of the result of analysis on samples taken under Section 21 . Section 22 reads thus:

22. Reports of the result of analysis on samples taken under section 21.— (1) Where a sample of any sewage or trade effluent has been sent for analysis to the laboratory established or recognised by the Central Board or, as the case may be, the State Board, the concerned Board analyst appointed under sub-section

(3) of Section 53 shall analyse the sample and submit a report in the prescribed form of the result of such analysis in triplicate to the Central Board or the State Board, as the case may be.

(2) On receipt of the report under sub-section (1), one copy of the report shall be sent by the Central Board or the State Board, as the case may be, to the occupier or his agent referred to in Section 21 , another copy shall be preserved for production before the court in case any legal proceedings are taken against him and the other copy shall be kept by the concerned Board.

(3) Where a sample has been sent for analysis under clause (e) of sub-section (3) or sub-section (4) of Section 21 , to any laboratory mentioned therein, the Government analyst referred to in that sub-section shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the Central Board or, as the case may be, the State Board which shall comply with the provisions of sub- section (2).

(4) If there is any inconsistency or discrepancy between, or variation in the results of, the analysis carried out by the laboratory established or recognised by the Central Board or the State Board, as the case may be, and that of the laboratory established or specified under Section 51 or Section 52, as the case may be, the report of the latter shall prevail.

(5) Any cost incurred in getting any sample analysed at the request of the occupier or his agent shall be payable by such occupier or his agent and in case of default the same shall be recoverable from him as arrears of land revenue or of public demand.

10.9. As is evident from the above, after a sample of any sewage or trade effluent is sent to the concerned laboratory, the competent analyst shall analyse the samples and submit a report in the prescribed form of the result of such analysis to the pollution control board. A copy of such report shall also be forwarded to the occupier or his agent.

10.10. Section 24 prohibits release or disposal of polluting matter into any stream or well or sewer or on land. Sub- section (1) of Section 24 is relevant and reads as under:

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 stream or well or sewer or on land; or

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(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.

10.11. As per Section 43 of the Water Act, whoever contravenes the provisions of Section 24 shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine.

11. We now come to the Environment (Protection) Act, 1986 (briefly 'the Environment Act' hereinafter). It is an act to provide for the protection and improvement of environment and for matters connected therewith. Section 2(a) defines 'environment' in the following manner:

"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.

11.1. 'Environmental pollutant' has been defined in Section 2(b) to mean any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment. 'Environmental pollution' is defined under Section 2(c) and means the presence in the environment of any environmental pollutant. Section 2(f) defines 'occupier' in relation to any factory or premises, to mean 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.

11.2. Sections 7, 8, 14A, 15 and 15A are included in Chapter III which deals with prevention, control and abatement of environmental pollution. Section 7 says that 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. Similarly, Section 8 says that 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.

11.3. Section 14A has been introduced by way of an amendment in the year 2023 with effect from 01.04.2024. It provides for penalty in the event of contravention of Sections 7 and 8. Section 14A is extracted hereunder:

14A. Penalty for contravention of section 7 or section 8.—(1) If any person, contravenes provisions of Section 7 or Section 8 or the rules made thereunder, he shall be liable to penalty in respect of each such contravention, which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of fifty thousand rupees for every day during which such contravention continues.

11.4. Be it stated that Section 15 was also introduced in the Environment Act by way of the 2023 amendment with effect from 01.04.2024. Section 15 deals with penalty for contravention of the provisions of the Environment Act, rules, orders and directions. Section 15 reads thus:

15. Penalty for contravention of provisions of Act, rules, orders and directions.—(1) Where any person contravenes or does not comply with any of the provisions of this Act or the rules made or orders or directions issued thereunder for which no penalty is provided, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.

11.5. Similarly, Section 15A provides for penalty for contravention by companies. Section 15A is as follows:

15A. Penalty for contravention by companies.—(1) Where any company contravenes any of the provisions of this Act, the company shall be liable to penalty for each such contravention which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.

(2) Where any company continues contravention under sub-section (1), the company shall be liable to additional penalty of one lakh rupees for every day during which such contravention continues.

12. 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 forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to person and property and for matters connected therewith or incidental thereto, the National Green Tribunal Act, 2010 has been enacted. Section 2(1)(c) defines the word ‘environment’. It says ‘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.

12.1. Section 2(1)(m) defines ‘substantial question relating to environment’ and is as follows:

2(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.

12.2. As per Section 14, National Green Tribunal (NGT) has the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved.

12.3. Section 15 deals with the relief, compensation and restitution that NGT may provide. Sub-section (1) of Section 15 reads as under:

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.

12.4. Section 17 deals with liability to pay relief or compensation in certain cases. As per sub-section (1), where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage. Sub-section(2) says that if the death, injury or damage cannot be attributed to any single

activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, NGT may apportion the liability for relief compensation amongst those responsible for such activities, operations and processes on an equitable basis. In case of an accident, NGT shall apply the principle of no fault.

12.5. We now come to Section 19 which deals with the procedure and powers of NGT. Sub-section (1) says that NGT shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice. For the purposes of discharging its functions, NGT shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the matters mentioned in sub-section (4) and as per Clause (i), it has the mandate to pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard on any application made or appeal filed under the said Act. Sub-section (5) makes it abundantly clear that all proceedings before NGT shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 for the purposes of **Section 196** of the **INDIAN PENAL CODE**, 1860 and the NGT shall be deemed to be a civil court for the purposes of **Section 195** and Chapter XXVI of the Code of Criminal Procedure, 1973.

13. Having adverted to the relevant statutory provisions, let us examine as to how the NGT proceeded in this matter. We have already noticed that a joint committee was constituted by NGT comprising of CPCB, UPPCB and District Magistrate, Muzaffarnagar to conduct inspection of the sugar mill of the appellant when it was functional and thereafter to file status report with regard to handling of the effluents. Pursuant thereto, inspection was carried out on 08.12.2021 whereafter report was submitted on 11.01.2022. General observations of the joint committee as extracted in the impugned order dated 15.02.2022 are as follows:

3.0 OBSERVATIONS

1. The unit M/s Triveni Engineering and Industries Limited, Sugar Unit, Village Sheikhpura, Khatauli, Dist.- Muzaffarnagar is engaged in production of refined sugar by Defco melt Phosphatation followed by Ion Exchange Process (IER) with consented capacity of 16000 TCD.
2. The unit has started its crushing season 2021-22 on 07th November, 2021 and the unit was operational on the date of visit i.e. 08th December 2021.
3. As informed by the unit ETP was started on 27/09/2021 for stabilization purpose in compliance to notified standards in MoEF&CC Notification G.S.R. 35(E) dated 14th January, 2016
4. The unit has valid Consent to Operate under section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 (as amended) for 65 TPH boiler, which is valid up to 31.12.2023 and for two boilers of 120 TPH, which is valid up to 31.12.2024.
5. The unit has valid Consent to Operate under section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 (as amended) for discharge of effluent, which is valid up to 31.12.2023.
6. The unit has valid Authorization issued under the provisions of Hazardous and Other Wastes (Management and Trans-Boundary Movement) Rules, 2016 for storage and disposal of hazardous wastes valid up to 13.01.2023.
7. As per Daily Manufacturing Reports (DMRs) provided by the unit, the average actual crush rate (TCD) is 11975.56 TCD (for duration of 20th November 07th December, 2021), against the consented capacity of 16000 TCD.
8. The unit is an integrated backend refinery sugar unit with 45 MW cogeneration power plant for in-house activity in sugar manufacturing process and the unit has valid Consent to Operate under section

25/26 of Water (Prevention & Control of Pollution) Act, 1974 (as amended) for discharge of effluent, which is valid up to 31.12.2024.

9. Being a Sugar Refinery SO₂ gas is not used in sugar manufacturing process, hence provision of separate Sulphur Recovery System (SRS) is not required.

10. The unit has installed Ion Exchange Resin Technology for decoloring of sugar syrups. The Ion Exchange resin gets saturated/ exhausted after repeated usage and has to be regenerated. The unit regenerates exhausted resin using caustic brine solutions. 11. The unit has submitted the details about the Brine recovery system, which is as follows:

Overall Operating Parameters	
Feed capacity	7500 LPH
Operating hr	20 hr
Overall permeate	6775 LPH
Final Reject	725 LPH
Overall Recovery	90 % ± 2%

12. The unit has 03 boilers with capacity of 120 TPH (02 nos.) for co-gen and one boiler with capacity of 65 TPH for sugar manufacturing process with valid consent.

65 TPH boiler has stack height of 40m from ground level and two boilers of 120 TPH has stack height of 74 meter from ground level.

13. The unit has 02 DG sets having capacity of 1010 KVA each with acoustic enclosure.

14. As informed, the unit transfers used oil to third party (Ramky Enviro Engineers Ltd.) for its disposal on quarterly basis. The unit has provided membership certificate (UPWMP – KNP – HzW – CHW – TSDF - 2174) with Ramky Group, valid up to 23.02.2022.

15. The unit has Permitted Quantity (kg/day) of 10.0 kg/day of Used Oil under Schedule I (Category 5.1) and Wastes or residues containing oil under Schedule I (Category 5.2) of Hazardous and Other Wastes (Management and Trans- Boundary Movement) Rules, 2016 as per consent issued by UPPCB. The unit has not provided the details of quantity provided to Ramky Enviro Engineers Ltd.

16. The unit has not installed flow meter at mill house and boiling house to quantify the effluent generation separately. The effluent generated from the mill house and boiling house is being collected in a collection tank and further it goes to ETP inlet by gravity for further treatment.

17. The unit has setup environmental laboratory; however, the unit has not maintained the ETP log book for daily analysis of sugar effluent parameter.

18. As informed by the unit representative, the boiler ash is used to fill low laying area, however, the unit has not provided record of generated boiler ash.

19. It was observed that the unit has not maintained the record of Press mud generation, however, it was informed that press mud was provided to local farmers as organic manure.

20. The unit has two underground reservoirs (UGR) for hot water and cold- water recirculation system having capacities of 300 m3 and 400 m3 each.

14. The joint committee also observed that there were two ponds filled with waste water at the backside of the sugar mill. It is stated that the inspecting team collected the samples from the ponds for physio-chemical analysis. Thereafter, the observations of the joint committee alongwith the analysis results were extracted by the NGT in the impugned order dated 15.02.2022 which reads as follows:

21. The Joint Team has observed two ponding (Pond 1- large in size and Pond 2- small in size) filled with waste water at the back side of the press mud storage area. The team has collected the sample from pond for physico-chemical analysis. The analysis results of the collected samples are mentioned as below:

Table-1: Analysis results of Ponding behind press mud storage area

Sample Analysis	pH	COD	BOD	TSS	TDS	Cl-	Col or	SO 42	NO3 – N	NO2 – N	PO4 – P
Pond-1 (Large)	5.8	750	420	43	592	190	65	39	6.89	0.04	2.11
Pond-2 (Small)	5.1	1267	587	94	472	260	57	419	7.69	BDL	2.70

22. Analysis result of sample collected from pond-1 shows acidic pH-5.8, Color-65, high BOD-420 mg/l and COD- 750 mg/l, which indicate the characteristics of untreated effluent.

23. Analysis result of sample collected from pond-2 shows acidic pH-5.1, Color-57, high BOD-587 mg/l and COD-1267 mg/l, which reflect the characteristics of Refined Sugar effluent (pH-5.5- 6.5, Color- Light brown, BOD- 600-1000 mg/l, COD- 1500-2500 mg/l).

15. The joint committee also collected water samples from the sugar mill drain. The findings of the joint committee qua the samples collected from the sugar mill drain reads as under:

24. The team has also collected water samples from Sugar mill drain (name of the drain is Sugar mill drain), river Kali East i.e. upstream and downstream of the Sugar mill drain & Canal near sugar mill (Lat-29.269901, Long-77.743243). The analysis results are mentioned as below:

Table-2: Analysis results of Sugar mill Drain, River Kali East i.e. upstream and downstream of the Sugar mill drain & Canal near sugar mill

Sample Analysis	River Kali East u/s Sugar Mill drain	Sugar Mill drain	River Kali East d/s Sugar Mill drain	Canal near Sugar mill (29.269901 77.743243)
pH	6.5	6.8	6.6	7.9

1240

COD (mg/l)	198	402	529	7.0
BOD (mg/l)	68	98	166	-
TSS (mg/l)	79	567	901	33
TDS (mg/l)	196	120	328	122
Cl- (mg/l)	47	64	66	46
Color	30	46	43	BDL
SO ₄ ²⁻ (mg/l)	451	57	52	44
NO ₃ ^{-N} (mg/l)	1.95	2.62	1.87	1.3
NO ₂ ^{-N} (mg/l)	BDL	BDL	BDL	-
PO ₄ ^{-P} (mg/l)	0.64	0.75	0.73	0.07
Conductivity (µmho/cm)	-	-	-	216
Total hardness as CaCO ₃ (mg/l)	-	-	-	303
Total Alkalinity as CaCO ₃ (mg/l)	-	-	-	322
Fluoride (mg/l)	-	-	-	0.3

25. Analysis result of sample collected from River Kali East u/s Sugar Mill drain shows pH- 6.5, COD-198 mg/l, BOD-68 mg/l, TSS-79 mg/l, TDS- 196 mg/l, Chloride-47 mg/l, SO₄²⁻-451 mg/l, NO₃^{-N}-1.96 mg/l, NO₂^{-N}-BDL, PO₄^{-P}-0.64 mg/l.

26. Analysis result of sample collected from River Kali East d/s Sugar Mill drain shows pH- 6.6, COD-529 mg/l, BOD-166 mg/l, TSS-901 mg/l, TDS- 328 mg/l, Chloride-66 mg/l, SO₄²⁻-52 mg/l, NO₃^{-N}-1.87 mg/l, NO₂^{-N}-BDL, PO₄^{-P}-0.73 mg/l indicate the effect of effluent carried by sugar mill drain i.e. pH-6.8, COD- 402 mg/l, BOD-98 mg/l, TSS-567 mg/l, TDS-120 mg/l, Chloride-64 mg/l, SO₄²⁻-46 mg/l, NO₃^{-N}-2.67 mg/l, NO₂^{-N}-BDL, PO₄^{-P}-0.75 mg/l.

27. The increase in BOD, COD and TSS in River Kali East at downstream of Sugar mill drain is due to turbulent flow conditions contributing in higher TSS, thereby BOD & COD increased. The entire flow in drain was sewage. Direct discharge or outlet into the Sugar mill drain was not evident during inspection.

28. Analysis result of samples collected from Canal near Sugar mill shows pH- 7.9, COD-7.0 mg/l, TSS- 33 mg/l, TDS- 122 mg/l, Chloride-46 mg/l, SO4²⁻-44 mg/l, NO₃-N-1.3 mg/l, PO₄-P-0.07 mg/l.

16. Similar analysis of water samples collected from borewells and handpumps of the sugar mill and nearby areas were made and results have been recorded. Likewise, analysis results of samples collected from the Sewage Treatment Plant and Effluent Treatment Plant have been recorded. Thereafter, the joint committee concluded in the following manner:

5.0 CONCLUSION

A. Compliance with the Standards:

1. The analysis results of sample collected from ETP outlet after filtration show pH - 7.5, COD- 15 mg/l, BOD - 05 mg/l, TSS - BDL, TDS – 272 mg/l, Oil & Grease - BDL & from lagoon show pH-7.6, COD- 04 mg/l, BOD - 01 mg/l, TSS - BDL, TDS - 532 mg/l, which are complying w.r.t. the Notified standards in MoEF&CC Notification G.S.R. 35 (E) dated 14th January, 2016.

2. However, it seems from the percentage reduction by two Aeration Tank (in series) in BOD-99.27%, COD- 97.73% & TSS- 100% as compared from Primary Clarifier outlet to Secondary Clarifier-1, indicate dilution with fresh water by the unit.

3. MLSS value of 1674 mg/l in Aeration Tank- I of ETP indicates presence of less biomass against desired level (2500-3000 mg/l).

4. Also, Secondary Clarifier-2 outlet characteristics TSS - BDL and TDS - 136 mg/l (compared to Secondary Clarifier -1 outlet TDS 680 mg/l with same influent) indicate provisions of dilutions using fresh water in the outlet.

5. The effluent stored (Pond 1 & Pond 2) behind press mud is an illegal disposal of untreated effluent and the characteristics i.e. BOD (420 mg/l and 587 mg/l) and COD (750 mg/l and 1267 mg/l) confirm stored/disposed effluent was untreated which is a violation of consent conditions issued by UPPCB.

B. Quality of treated effluents and utilisation as per protocol/agreement with the users/farmers:

1. The unit has stored treated effluent in lagoon after ETP filtration units, which was in semi filled condition. The analysis results of sample collected from lagoon are complying w.r.t. the Notified standards in MoEF&CC Notification G.S.R. 35(E) dated 14th January, 2016.

2. The unit has not provided any agreement for providing treated effluent for irrigation to users/farmers, however as informed by the unit representative, treated effluent used in the plant.

C. Effluents are reaching any drain leading to river/water body:

1. Provision of direct discharge or outlet point from unit into the sugar mill drain was not evident during inspection. The entire flow in Sugar mill drain was carrying sewage. The increase in BOD, COD and TSS in River Kali East at downstream of Sugar mill drain is due to turbulent flow conditions contributing in higher TSS, thereby BOD & COD increased.

D. Ground water quality be checked as per parameters relevant to the industry in question, particularly, fluoride etc.:

1. The analysis result of sample collected from 01 borewell located inside and 04 handpumps located outside the unit premises shows fluoride within permissible limit i.e.1.5 mg/l as per BIS IS 10522:2012

Standards.

2. However, analysis results of samples collected from borewells within unit premises and all 04 Handpumps outside the unit premises are within permissible limit as per drinking water standard BIS IS 10500:2012 except Fe- 0.62mg/l, 4.78 mg/l, 0.46 mg/l from Handpump Sugar Mill near canal, Handpump Sugar Mill near drain and Handpump near Main gate of sugar mill respectively. Selenium (Se)- 0.02 mg/l is also detected which is beyond the permissible limit i.e. 0.01 mg/l as per drinking water standard BIS IS 10500:2012 in the sample collected from Handpump near Main gate of sugar mill.

E. Others:

1. The unit M/s Triveni Engineering and Industries Limited, Sugar Unit, Village Sheikhpura, Khatauli, Distt Muzaffarnagar is an integrated refinery sugar unit with 45 MW cogen and having consented capacity of 16000 TCD. As per Daily Manufacturing Reports (DMRs) provided by the unit, the average actual crush rate (TCD) is 11975.56 TCD (for duration of 20th November 07th December, 2021).

2. The unit has valid Consent to Operate under section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 (as amended) for 65 TPH boiler, which is valid up to 31.12.2023 and for two boilers of 120 TPH, which is valid up to 31.12.2024.

3. The unit has valid Consent to Operate under section 25/26 of Water (Prevention & Control of Pollution) Act, 1974 (as amended) for discharge of effluent, which is valid up to 31.12.2023. The unit has valid Authorization issued under the provisions of Hazardous and Other Wastes (Management and Trans-Boundary Movement) Rules, 2016 for storage and disposal of hazardous wastes valid up to 13.01.2023.

4. The unit has a membership of TSDF with Ramky Enviro Engineers Ltd. as informed for disposal of used oil and wastes or residues containing oil on quarterly basis. Membership is valid up to 23.02.2022.

5. The unit has not installed flow meter at mill house and boiling house to quantify the effluent generation separately.

6. The unit has environmental laboratory for daily analysis of sugar effluent parameter, however, the unit has not maintained the ETP log book.

7. The unit has not provided record of generated Boiler ash.

8. The unit has not maintained the record of Press mud generation.

9. The unit has permission to abstract total 430 m³/hr of groundwater from four existing bore-wells as per No Objection Certificate (NOC) from Uttar Pradesh Ground Water Department (UPGWD), which is valid up to 13.01.2023.

10. The unit has Sewage Treatment Plant (STP) with capacity of 500 KLD for the treatment of domestic waste water generated from its residential colony/mill staff having population around 1000-1200 people. The analysis results (BOD-10 mg/l and COD-39 mg/l) of samples collected from STP inlet indicate dilution with fresh water by the unit.

11. The unit has installed flowmeters at the inlet & outlet of STP, however, flowmeters were found non-operational at the time of inspection.

17. On the aforesaid basis, the joint committee made the following recommendations:

6.0 RECOMMENDATIONS

1. The unit shall not discharge partially treated effluent into the drain and on land within or outside the unit premises.
 2. The unit shall install flow meters at mill house and boiling house to quantify the effluent generation separately.
 3. The unit shall maintain the proper records for quantity of used oil & grease as per valid Authorization issued under the provisions of Hazardous and Other Wastes (Management and Trans-Boundary Movement) Rules, 2016 for storage and disposal of hazardous wastes.
 4. The unit shall maintain proper record of Press Mud which is provided to the local farmers.
 5. The unit shall maintain the ETP log book for daily analysis of raw and treated effluent parameters.
 6. The unit shall maintain the proper record of boiler ash generation, sludge and their disposal.
 7. The unit shall maintain adequate MLSS & MLVSS concentration in Aeration Tank-I & II while operating the ETP to ensure proper stabilization of ETP.
 8. The unit shall make proper color coding of pipelines for water distribution network w.r.t. the defined coding of color for particular pipe carrying sugar effluent, treated effluent and fresh water.
 9. The unit shall dismantle the Pond-1 and Pond-2 which contains waste water having characteristics of partially treated industrial effluent.
 10. The unit shall restrict the use of Handpump near Main gate of sugar mill as the sample analysis shows Selenium (Se)- 0.02 mg/l which is beyond the permissible limit i.e. 0.01 mg/l as per drinking water standard BIS IS 10500.
 11. The unit shall make flow meters operational installed at STP inlet and outlet.
18. The impugned order dated 15.02.2022 indicates that the said report was accepted by the NGT and held that appellant had violated the environmental norms. On that basis and following further report of the joint committee dated 10.08.2022, compensation amount of Rs. 18 crores at the rate of 2 percent of annual turnover was worked out and imposed on the appellant by the NGT vide the second impugned order dated 16.09.2022, further directing that the same may be deposited by the appellant with the District Magistrate, Muzaffarnagar within one month.
19. From a conjoint reading of the report of the joint committee and the impugned orders of the NGT, the following features are clearly discernable:
- (i) NGT constituted a joint committee to carry out inspection of the sugar mill of the appellant vis a vis maintenance of pollution control measures and discharge of effluents.
 - (ii) This is an adhoc committee when the Water Act, more particularly Sections 21 and 22 thereof, clearly prescribe a statutory procedure to be followed while carrying out such inspection to examine pollution, if any, or the extent of pollution caused by the project proponent and to suggest remedial measures.
 - (iii) The joint committee report dated 11.01.2022 as noticed above, is silent as to whether it has followed the procedure laid down in the aforesaid Act more particularly notice to the occupier or his agent and collection and sealing of samples in the presence of the occupier or his agent having his signature on the sealed containers.

(iv) NGT did not deem it appropriate to get the appellant impleaded as a party respondent in O.A. No. 71/2021 though the entire proceedings were directed against it.

(v) No opportunity was granted to the appellant to contest the report of the joint committee and to have its say. Thus, there is clear violation of the provisions contained in Section 19 of the National Green Tribunal Act, 2010.

(vi) It is the categorical stand of the appellant that the joint committee did not issue any notice to it before carrying out the inspection and it was not served with a copy of the report of the joint committee either.

(vii) NGT accepted the report of the joint committee without any adjudication on it.

(viii) Environmental compensation was quantified without any adjudication and without granting any opportunity of hearing to the appellant.

(ix) Environmental compensation was imposed on the appellant without giving any opportunity to the appellant to contest the reports of the joint committee and without giving any opportunity of hearing to the appellant.

20. Let us now refer to and examine some of the relevant case laws on the subject.

21. In *A.K. Kraipak Vs. Union of India*, (1969) 2 SCC 262 a Constitution Bench of this Court considered the question as to whether principles of natural justice applied to administrative proceedings, after observing that the dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated. This Court observed that horizon of natural justice is constantly expanding. Aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. Rules of natural justice operate in areas not covered by any law validly made. Natural justice do not supplant the law of the land but supplement it. This Court answered the above question in the following manner:

20. The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words they do not supplant the law of the land but supplement it. The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules namely: (1) no one shall be a judge in his own case (*Nemo debet esse iudex propria causa*) and (2) no decision shall be given against a party without affording him a reasonable hearing (*audi alteram partem*). Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice. Till very recently it was the opinion of the courts that unless the authority concerned was required by the law under which it functioned to act judicially there was no room for the application of the rules of natural justice. The validity of that limitation is now questioned. If the purpose of the rules of natural justice is to prevent miscarriage of justice one fails to see why those rules should be made inapplicable to administrative enquiries. Often times it is not easy to draw the line that demarcates administrative enquiries from quasi-judicial enquiries. Enquiries which were considered administrative at one time are now being considered as quasi-judicial in character. Arriving at a just decision is the aim of both quasi-judicial enquiries as well as administrative enquiries. An unjust decision in an administrative enquiry may have more far reaching effect than a decision in a quasi-judicial enquiry. As observed by this Court in *Suresh Koshy George v. University of Kerala* [1968 SCC OnLine SC 9] the rules of natural justice are not embodied rules. 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 enquiry is held and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principle of natural

justice had 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.

22. As observed in *A.K. Kraipak (supra)*, the rules of natural justice are constantly expanding. A Constitution Bench of this Court in *S.N. Mukherjee Vs. Union of India*, (1990) 4 SCC 594 held that an administrative authority exercising quasi-judicial functions must record the reasons for its decision. An important consideration for holding so is that the reasons so recorded would enable the higher forum to effectively exercise appellate or supervisory powers. Further the requirement of recording reasons would guarantee consideration by the authority; introduce clarity in the decisions; and minimise chances of arbitrariness in decision making. Recording of reasons by an administrative authority serves a salutary purpose by excluding chances of arbitrariness and ensuring a degree of fairness in the decision making process. The Bench clarified that the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. The Bench conclusively held that except in cases where the requirement has been dispensed with, expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.

23. If this is true for an administrative authority exercising quasi-judicial functions, it is all the more true for a judicial tribunal vested with adjudicatory powers.

24. In *Municipal Corporation of Greater Mumbai Vs. Ankita Sinha*, 2021 SCC Online SC 1298 : 2021 Supreme(SC) 598 this Court referred to its earlier decision involving the same parties whereby and whereunder the question as to whether National Green Tribunal (NGT) can exercise suo motu jurisdiction or initiate suo motu action was answered in the affirmative. Thereafter, this Court held that even if NGT intends to initiate suo motu action, it must provide an opportunity of hearing to persons likely to be affected before passing any adverse order against them. In that context, this Court held that the impugned ex-parte preemptory order passed by the NGT without giving opportunity to the person likely to be affected by such order be treated as effaced from the record. This Court made it amply clear that NGT is obliged to hear the party before issuing any adverse directions which is likely to be directly affected by it, including an action initiated suo motu.

25. This Court in *T. Takano Vs. Securities and Exchange Board of India*, (2022) 8 SCC 162 examined the issue of disclosure of all relevant materials to the parties in the context of disclosure of investigative report submitted to the Securities and Exchange Board of India under Regulation 9 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 to the noticee to whom the show cause was issued and held that possession of information by both the parties can aid the courts in determining the truth of the contentions. The role of the court is not restricted to interpreting the provisions of law but also in determining the veracity and truth of the allegations made before it. The court would be able to perform this function accurately only if both parties have access to information and possess the opportunity to address arguments and counter arguments related to the information.

25.1. Elaborating further, this Court held that principles of fairness and transparency of adjudicatory proceedings are the cornerstones of the principle of open justice. This is the reason why an adjudicatory authority is required to record its reasons for every judgment or order it passes. The purpose of disclosure of information is not merely individualistic that is to prevent errors in the verdict but is also towards fulfilling the larger institutional purpose of fair trial and transparency. Therefore, all relevant materials must be disclosed; otherwise it would be fundamentally contrary to the principles of natural justice. In the circumstances, this Court concluded as under:

50.1. A quasi-judicial authority has a duty to disclose the material that has been relied upon at the stage of adjudication.

50.2. An ipse dixit of the authority that it has not relied on certain material would not exempt it of its liability to disclose such material if it is relevant to and has a nexus to the action that is taken by the authority. In all reasonable probability, such material would have influenced the decision reached by the authority.

50.3. Thus, the actual test is whether the material that is required to be disclosed is relevant for purpose of adjudication. If it is, then the principles of natural justice require its due disclosure.

26. *State Bank of India Vs. Rajesh Agarwal* , (2023) 6 SCC 1 is a case where this Court once again reiterated that principles of natural justice are not mere legal formalities. They constitute substantive obligations that need to be followed by decision- making and adjudicating authorities. This Court held as under:

36. We need to bear in mind that the principles of natural justice are not mere legal formalities. They constitute substantive obligations that need to be followed by decision-making and adjudicating authorities. The principles of natural justice act as a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, quasi-judicial, and administrative authorities. Two fundamental principles of natural justice are entrenched in Indian jurisprudence : (i) *nemo judex in causa sua*, which means that no person should be a Judge in their own cause; and (ii) *audi alteram partem*, which means that a person affected by administrative, judicial or quasi- judicial action must be heard before a decision is taken. The courts generally favour interpretation of a statutory provision consistent with the principles of natural justice because it is presumed that the statutory authorities do not intend to contravene fundamental rights. Application of the said principles depends on the facts and circumstances of the case, express language and basic scheme of the statute under which the administrative power is exercised, the nature and purpose for which the power is conferred, and the final effect of the exercise of that power.

26.1. Further, this Court held in clear terms that every order or proceeding which involves civil consequences or adversely affects a citizen should be in accordance with the principles of natural justice.

27. In *Kantha Vibhag Yuva Koli Samaj Parivartan Trust Vs. State of Gujarat* , (2023) 13 SCC 525 this Court dealt with an appeal arising out of an order passed by the NGT dismissing an original application alleging environmental degradation and seeking restitution of the environment. This Court observed that it is important to differentiate expert committees which are set up by the courts/tribunals from those set up by the government in exercise of executive powers or under a particular statute and held as follows:

17. It is first important to differentiate Expert Committees which are set up by the courts/tribunals from those set up by the Government in exercise of executive powers or under a particular statute. The latter are set up due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before the courts when decisions are taken solely based upon them. The precedents of this Court unanimously note that courts should be circumspect in rejecting the opinion of these committees, unless they find their decision to be manifestly arbitrary or mala fide. On the other hand, the courts/tribunals themselves set up Expert Committees on occasion. These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require the committees to conduct field visits. These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to the mandate. Once these committees submit their final reports to the court/tribunal, it is open to the parties to object to them, which is then adjudicated upon. The role of these Expert Committees does not substitute the adjudicatory role of the court or tribunal. The role of an Expert Committee appointed by an adjudicatory forum is only to assist it in the exercise of adjudicatory functions by providing them better data and factual clarity, which is also open to challenge by all the parties concerned. Allowing for objections to be raised and considered makes the process fair and participatory for all the stakeholders.

27.1. This Court also referred to an earlier decision in the case of *Sanghar Zuber Ismail Vs. Union of India* , (2021) 17 SCC 827 wherein it was held that constitution of an expert committee does not absolve NGT of its duty to adjudicate. The adjudicatory functions of NGT cannot be assigned to committees, even expert committees. The decisions have to be that of NGT. NGT has been constituted as an expert adjudicatory authority under the statute. The discharge of its functions cannot be obviated by tasking committees to carry out a function which vests in the NGT. Adverting to the facts of that case, this Court held that NGT had abdicated its jurisdiction by entrusting judicial function to an administrative expert committee. An expert committee may be able to assist NGT, for instance, by carrying out a fact finding exercise but the adjudication has to be by NGT.

28. This Court in *Grasim Industries Limited Vs. State of Madhya Pradesh* , (2024) SCC Online SC 3538 : 2024 Supreme(SC) 1129 noticed that NGT had followed a similar procedure as in the present case. The procedure followed by NGT has been summed up in the following manner:

4. After the NGT entertained the O.A. on the basis of the letter addressed by Respondent No. 1, it initially directed the plant of the appellant to be examined by the State Pollution Control Board. After the receipt of the report of the State Pollution Control Board, the Court appointed a Joint Committee to give its report. The said Joint Committee made certain recommendations and the NGT passed the impugned order on the basis of the said recommendations.

5. The material placed on record would also reveal that the appellant herein was not made a party to the proceedings before the learned NGT or before the Joint Committee. Though an application for impleadment was filed by the appellant, the same was rejected by the learned NGT.

6. It further appears that even the Joint Committee appointed by the NGT neither gave any notice to the appellant nor an opportunity was given of being heard. Though, this objection was specifically taken by the appellant, the NGT observed “We asked the learned Counsel whether the stand of the unit is that the violations found never existed or whether they existed but have been remedied. His answer is later. It is patent that there were violations.

28.1. It was in the above context that this Court held that the procedure followed by NGT was totally unknown to the settled principles of natural justice. Neither was any notice given by the joint committee to the appellant before giving an adverse report against the appellant nor the NGT permitted impleadment of the appellant as a party respondent. NGT could not have proceeded further with the matter even at the initial stage without impleading the appellant as a party respondent. Approach adopted by the NGT clearly smacks of condemning a person unheard. NGT cannot outsource an opinion and base its decision on such opinion.

29. In *Delhi Pollution Control Committee Vs. Lodhi Property Company Limited* , 2025 SCC OnLine SC 1601 : 2025 Supreme(SC) 1143 this Court examined the challenge of Delhi Pollution Control Board to a judgment of the Delhi High Court whereby it was held that Delhi Pollution Control Board is not empowered to levy compensatory damages in exercise of powers under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31A of the Air (Prevention and Control of Pollution) Act, 1981 on the ground that such an action amounts to imposition of penalty provided for in Chapters VI and VII of the aforesaid Acts and, as such, the procedure contemplated thereunder will be the only method for imposing and collecting compensatory damage. The core question in that case was whether the regulatory boards in exercise of powers under Section 33A of the Water Act and Section 31A of the Air Act can impose and collect as restitutionary and compensatory damages fixed sums of monies or require furnishing bank guarantees as an ex-ante measure towards potential environmental damage? The above question was answered in the affirmative by holding that pollution control boards can impose and collect as restitutionary and compensatory damages, fixed sums of monies or require furnishing bank guarantees as an ex-ante measure towards potential environmental damage

in exercise of the aforesaid powers. However, what is relevant for our present consideration is the following declaration:

39. * * * * *

(c) it is further directed that the power to impose or collect restitutionary or compensatory damages or the requirement to furnish bank guarantees as an ex-ante measure under Sections 33A and 31A of the Water and Air Acts shall be enforced only after detailing the principle and procedure incorporating basic principles of natural justice in the subordinate legislation.

30. Having surveyed the relevant case law on the subject, let us revert back to the present case. From the conspectus of facts and law, it is clearly evident that the impugned orders are in complete violation of the procedures laid down in the Water (Prevention and Control of Pollution) Act, 1974, the Environment (Protection) Act, 1986, more particularly Sections 21 and 22 of the Water Act and the National Green Tribunal Act, 2010, including Section 19 thereof. It is crystal clear that the impugned decisions which entail adverse civil consequences upon the appellant were passed without following the due procedure laid down under the statute as well as the elementary principles of natural justice. We, therefore, have no hesitation in declaring such orders to be illegal and null and void.

31. NGT exercises judicial functions. Therefore, it is all the more necessary for the NGT to adhere to a fair procedure which is statutorily laid down of which principles of natural justice are an inalienable part. Rigor of Section 19(1) of the National Green Tribunal Act, 2010 is qua the procedure to be adopted by the NGT in conducting its proceedings. It cannot be stretched to abandon the statutory procedure laid down under Sections 21 and 22 of the Water Act and by outsourcing investigation to administrative committees by overlooking the statutory provisions and basing its decisions on the recommendation of such administrative committee. This is not within the remit of NGT.

32. As we have noticed above, this is a classic case where in the quest for doing justice, NGT has ended up doing just the reverse.

33. Ordinarily, in a case where there is violation of the principles of natural justice, parties are relegated to the adjudicatory forum to re-do the exercise after following the due process. But in this case, the entire exercise has been vitiated because of non-conforming to the laid down procedure contemplated under Sections 21 and 22 of the Water (Prevention and Control of Pollution) Act, 1974. In such circumstances, relegating the parties back to the NGT in our considered opinion would serve no useful purpose. However, we clarify that it will always be open to the UPPCB to carry out inspection and take remedial measures qua the sugar mill of the appellant by following the procedure laid down under the Water Act and after complying with the due process statutorily laid down thereunder, including by adhering to the principles of natural justice.

34. Accordingly and in the light of the above, the impugned orders dated 15.02.2022 and 16.09.2022 passed by the NGT in O.A. No. 71/2021 are hereby set aside. Consequently, the civil appeals are allowed. However, there shall be no order as to cost.

Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 1046 of 2019

**Kantha Vibhag Yuva Koli Samaj Parivartan
Trust and Others**

Appellants

Versus

State of Gujarat and Others

Respondents

J U D G M E N T

Dr Justice Dhananjaya Y Chandrachud, J

1 Admit.

2 This appeal under Section 22 of the National Green Tribunal Act 2010¹ arises from a judgment and order of the Principal Bench of the National Green Tribunal² dated 28 September 2018, by which it dismissed OA No 81 of 2014 (WZ).

3 OA No 81 of 2014 (WZ), instituted under Sections 14 and 15 of the NGT Act, was

1 "NGT Act"

2 "NGT"

pending before the NGT for nearly four years since July 2014. It had been filed by the appellants, who are environmental organisations and individuals directly affected by the degradation of the environment in the area in question. The OA pertained to the issue of the dumping of unsegregated and untreated Municipal Solid Waste³ at an open landfill site admeasuring 188 hectares at Survey No 111 /A, Block No 177, Khajod Village, Taluka Choryasi in the district of Surat, which is surrounded by thirty-five villages. The landfill site had been set up by the fourth respondent, Surat Municipal Corporation⁴, which had started dumping 850 Metric Tonnes of waste per day on 24 January 2003. The extent of dumping increased to 1600 Metric Tonnes of waste per day by 16 January 2014. It was alleged, *inter alia*, that the dumping of waste in the open area without prior treatment was in violation of the Municipal Solid Waste (Handling and Management) Rules 2000 and Bio Medical Waste (Management and Handling) Rules 1998. Further, while SMC had been issued multiple warnings during site visits and inspections, the situation did not improve. It was alleged that the waste disposal led to an irreversible contamination of local water bodies and ground water, caused severe air pollution due to the burning of waste, damaged the ecology of the nearby villages and was affecting the health of the citizens and livestock in the vicinity. The appellants sought directions, *inter alia*, for: (i) restraining the dumping of MSW at the landfill site; (ii) restoration of the environment in the surrounding areas; (iii) restitution of the landfill site to its original condition; (iv) compensation to all those affected in the nearby villages upon

3 "MSW"

4 "SMC"

determination of damages by a committee set up to assess the landfill site; and (v) implementation of the Solid Waste Management Rules 2016⁵.

4 The Western Zone Bench of the NGT issued notice on 8 August 2014. A series of orders emanated from the Western Zone Bench of the NGT in connection with the issues raised. It would suffice to note a few of those orders:

- (i) On 20 March 2015, the NGT noted that “*prima facie* there is ring of truth in the averments made by the Applicants, to indicate that MSW plant, is being mismanaged” and that the burning of the untreated MSW was causing severe air pollution affecting the health of the residents of the nearby villages. Interim directions were issued to prevent this from taking place during the pendency of the OA;
- (ii) On 22 December 2015, the NGT again reproached SMC for not preparing a proper action plan and audit for the management of MSW in the district of Surat. However, on the appellant’s issue of their participation in the management of the landfill site, the NGT noted that it would be decided during the final hearing;
- (iii) On 7 March 2016, the NGT directed the Commissioner of SMC to be present and to provide a statement on the following issues: (a) extent of waste collected, treated and disposed of in accordance with the mandate of the Municipal Solid Waste (Handling and Management) Rules 2000; (b) the officers who have failed

⁵ “SWM Rules”

- to enforce the Rules and have failed to comply with the directions of the NGT; (c) the time schedule within which proper waste management will be done in the area in terms of the Rules; and (d) filing an undertaking that waste management shall be done in letter and spirit;
- (iv) On 16 May 2017, the NGT noted that in pursuance of its previous directions, SMC had filed an affidavit indicating, *inter alia*, the action plan which it proposed to execute for handling the problem of MSW within its jurisdiction. The NGT was informed that the issue pertaining to the closure of the Khajod dumping site was pending before the Standing Committee of SMC. Hence, the NGT directed the Standing Committee to take a decision and issue a work order for commencing the work of the closure of the open dumping site within a month. Moreover, SMC was directed to place on the record the details of the lands where the projects are to be commissioned;
- (v) On 19 September 2017, a statement was made on behalf of SMC that it is under an obligation to comply with the SWM Rules and that the site at Khajod is designated for a landfill, an MSW processing plant and a waste-to-energy plant of 100 TPD on a public-private partnership basis;
- (vi) Pursuant to the order of the NGT dated 19 September 2017, the appellants formulated certain action points for implementation of the SWM Rules. On 26 September 2017, an undertaking was filed on behalf of SMC by the Municipal

Commissioner setting out the steps which would be taken for dealing with MSW, transportation, storage, and processing as well as on other related matters. The undertaking stipulated that there shall be no landfilling or dumping of unprocessed and unsegregated MSW after two years subject to “100% working of the Solid Waste Processing Plant” and certain other conditions;

- (vii) On 6 November 2017, an order was passed by the NGT setting out that it would be hearing SMC, *inter alia*, on the qualified nature of the undertaking which was furnished by it, having regard to the SWM Rules and on the proposed use of the Khajod landfill site despite its potential as a landfill site being concluded. The NGT also indicated that it would be hearing submissions on the commissioning of the waste-to-energy plant and the waste-to-compost plant within a given time frame;
- (viii) An order was passed by the NGT on 5 December 2017, dealing particularly with the issue of quantification of compensation to the farmers due to the damage caused by the burning of solid waste and ground water pollution;
- (ix) On 2 July 2018, the NGT issued directions stating that the submissions which were urged before it by SMC were unacceptable. The NGT declined to accept the contention that the waste-to-energy plant could only be completed by December 2019, and directed that it ought to be completed by March 2018; and

(x) On 17 July 2018, the NGT noted that SMC's current action plan *prima facie* did not fulfill the requirements of Clause J of Schedule-I of the SWM Rules in relation to closure and rehabilitation of old dumping sites and legacy waste. Hence, it directed SMC to file an affidavit recording its compliance.

5 A considerable amount of judicial time and attention was entailed during the course of the hearings associated with the above orders. Earlier Benches of the NGT at the Western Zone Bench had been monitoring the status of compliance with the SWM Rules. The NGT was seized with diverse aspects pertaining to the disposal of MSW by SMC, including the modalities which have to be followed while commissioning projects in the future for the conversion of waste to energy.

6 Rather surprisingly, when the proceedings came up on 28 September 2018 before the Principal Bench of the NGT, the OA was disposed of on the ground that in another OA – OA No 606 of 2018 – the NGT had constituted Apex, Regional and State Level Committees to monitor the implementation of the SWM Rules. The OA filed by the appellants was thus closed with liberty to represent the case and ventilate all grievances before the appropriate committee. For convenience of reference, the order passed by the NGT is extracted below:

“As this OA relates to implementation of Solid Waste Management Rules, 2016, we are of the considered opinion that it is covered by the order passed by the larger Bench of the Tribunal dated 20th August, 2018 in OA No 606 of 2018.

The Applicant would be at liberty to represent its case and ventilate

all grievance before the Committee which shall look into it and finally decide the same.

Consequently, OA No 81 of 2014 stands disposed of. There shall be no order as to cost.

M.A. No. 1392 of 2018 and 1393 of 2018

These Applications do not survive for consideration as the main Application has been decided and are accordingly dismissed.”

7 At this juncture, it is also important to elaborate on NGT’s judgment and order dated 31 August 2018 in OA No 606 of 2018. Those proceedings arose from writ petitions filed before this Court in relation to the proper implementation of SWM Rules across the country, which were later transferred to the NGT. The NGT noted in its decision that though it had earlier issued directions for the implementation of the SWM Rules, they had not been complied with. Later, in a meeting organised by the Central Pollution Control Board with all the States and Union Territories, it was recommended that the NGT should form Apex, Regional and State Level Committees for the implementation of the SWM Rules and the directions issued by the NGT, and that these Committees should submit quarterly reports to the NGT. Thus, the NGT directed the following:

- (i) The Apex Monitoring Committee was set up for one year, till further orders. Its role was to interact with the relevant Ministries and the Regional Monitoring Committees, and it could formulate guidelines/directions which may be useful to the Regional Monitoring Committees and the States/Union Territories. It

was to meet preferably every month, and also preferably meet the Regional Monitoring Committees once a month. It shall then submit its report to the NGT every quarter. Further, it was also directed that the Committee set up a website for dissemination of information, so as to enable public participation;

(ii) The Regional Monitoring Committees were set up for one year, till further orders, for each zone – North, East, West, South and Central. They were to ensure effective implementation of the SWM Rules, and that mixing of bio-medical waste with MSW does not take place and bio-medical waste is processed in accordance with the Bio-Medical Waste Management Rules 2016. The Committees were to preferably meet every week, and meet the Apex Monitoring Committee, have *inter se* interactions and meet the States when necessary. They were to submit their reports to the Apex Monitoring Committee twice a quarter, and also submit a report to the NGT after the first quarter. Much like the Apex Monitoring Committee, the Regional Monitoring Committees were also directed to set up websites; and

(iii) The State Level Committees were set up for one year, till further orders, for each State and Union Territory. They were to preferably meet with local bodies once every two weeks, and the local bodies were to furnish them reports twice a month. They were to decide on technical and policy issues in accordance with the SWM Rules and consistent with the directions of Apex and Regional

Monitoring Committees. Further, they were to send their reports to the Regional Monitoring Committee on a monthly basis. It was also directed that public involvement may be encouraged and status of MSW be placed in the public domain.

The NGT directed that the Committees would be at liberty to issue directions for execution of the orders of the NGT to any authority.

8 Ms Shilpa Chohan, learned Counsel appearing on behalf of the appellants, has submitted that relegating the appellants to a committee was wholly inappropriate having regard to the progress which had been achieved by the Western Zone Bench of the NGT in unravelling various aspects of the case. Moreover, it is urged that the jurisdiction to provide restitution and award compensation is entrusted to the NGT and hence, it was not appropriate or proper to dispose of the OA by relegating the decision to a committee.

9 On the other hand, Mr Tejas Patel, learned Counsel appearing on behalf of SMC, submits that the appellants have produced absolutely no material on the basis of which a claim for compensation can be made. Moreover, it was urged that they have a remedy of ventilating their grievances before the appropriate committee.

10 The OA was filed by the appellants under Sections 14 and 15 of the NGT Act.

Section 14⁶ of the NGT Act vests the NGT with jurisdiction over all civil cases where a
⁶ **“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

substantial question relating to the environment is involved, and such question arises out of the implementation of the enactments specified in Schedule I to the statute. Sub-Section (1) of Section 15 is in the following terms:

“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.”

11 In **Mantri Techzone (P) Ltd. v. Forward Foundation**⁷, a three-Judge Bench of this Court outlined that Section 15(1)(c) of the NGT Act entrusts broad powers to the NGT. Speaking for the Court, Justice S Abdul Nazeer held:

“43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever

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.”

7 (2019) 18 SCC 494

the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.”

12 The OA filed by the appellants raised issues falling within the jurisdiction of the NGT under Section 14, since it relates to the implementation of the SWM Rules. The SWM Rules have been notified pursuant to the powers conferred by Sections 3, 6 and 25 of the Environment (Protection) Act 1986, which is Entry 5 in Schedule I of the NGT Act. None of the prayers sought by the appellants are of a nature that cannot be granted by the NGT in accordance with its powers under Section 15(1) of the NGT Act. The OA was being continuously heard by the Western Zone Bench of the NGT since August 2014, and it had already issued significant interim directions.

13 Hence, the issue before us is only whether the Principal Bench of the NGT correctly directed the appellants to now approach one of the Committees set up by it, rather than continue with the proceedings in the OA. To understand this, we must first consider the role of such committees which are set up by courts and tribunals alike.

14 It is first important to differentiate expert committees which are set by the courts/tribunals from those set up by the Government in exercise of executive powers or under a particular statute. The latter are set up due to their technical expertise in a given area, and their reports are, subject to judicially observed restraints, open to judicial review before courts when decisions are taken solely based upon them. The precedents of this court unanimously note that courts should be circumspect in rejecting

the opinion of these committees, unless they find their decision to be manifestly arbitrary or *mala fide*⁸. On the other hand, courts/tribunals themselves set up expert committees on occasion. These committees are set up because the fact-finding exercise in many matters can be complex, technical and time-consuming, and may often require the committees to conduct field visits. These committees are set up with specific terms of reference outlining their mandate, and their reports have to conform to the mandate. Once these committees submit their final reports to the court/tribunal, it is open to the parties to object to them, which is then adjudicated upon. The role of these expert committees does not substitute the adjudicatory role of the court or tribunal. The role of an expert committee appointed by an adjudicatory forum is only to assist it in the exercise of adjudicatory functions by providing them better data and factual clarity, which is also open to challenge by all concerned parties. Allowing for objections to be raised and considered makes the process fair and participatory for all stakeholders.

15 Sections 14 and Section 15 entrust adjudicatory functions to the NGT. The NGT is a specialized body comprising of judicial and expert members. Judicial members bring to bear their experience in adjudicating cases. On the other hand, expert members bring into the decision-making process scientific knowledge on issues concerning the environment. In **Hanuman Laxman Aroskar v. Union of India**⁹, a two-Judge Bench of this Court noted that the NGT is an expert adjudicatory body on the

⁸ **Basavaiah (Dr.) v. Dr. H.L. Ramesh**, (2010) 8 SCC 372 (in relation to appointment in an academic institution); **State of Kerala v. RDS Project Ltd.**, (2020) 9 SCC 108 (in relation to safety of a flyover project)
⁹ (2019) 15 SCC 401

environment. The Court held:

“133. The NGT Act provides for the constitution of a tribunal consisting both of judicial and expert members. The mix of judicial and technical members envisaged by the statute is for the reason that the Tribunal is called upon to consider questions which involve the application and assessment of science and its interface with the environment...

134. NGT is an expert adjudicatory body on the environment.”

The NGT does not have a dearth of ‘expertise’ when it comes to the issues of environment.

16 Section 15 empowers the NGT to award compensation to the victims of pollution and for environmental damage, to provide for restitution of property which has been damaged and for the restitution of the environment. The NGT cannot abdicate its jurisdiction by entrusting these core adjudicatory functions to administrative expert committees. Expert committees may be appointed to assist the NGT in the performance of its task and as an adjunct to its fact-finding role. But adjudication under the statute is entrusted to the NGT and cannot be delegated to administrative authorities. Adjudicatory functions assigned to courts and tribunals cannot be hived off to administrative committees. In **Sanghar Zuber Ismail v. Ministry of Environment, Forests and Climate Change and Another**¹⁰, a three-Judge Bench of this Court noted that the NGT cannot refuse to hear a challenge to an Environmental Clearance under Section 16(h) of the NGT Act and delegate the process of adjudicating on compliance to

¹⁰ 2021 SCC OnLine SC 669

an expert committee. The Court held:

“8...the NGT has not dealt with the substantive grounds of challenge in the exercise of its appellate jurisdiction. Constitution of an expert committee does not absolve the NGT of its duty to adjudicate. The adjudicatory function of the NGT cannot be assigned to committees, even expert committees. The decision has to be that of the NGT. The NGT has been constituted as an expert adjudicatory authority under an Act of Parliament. The discharge of its functions cannot be obviated by tasking committees to carry out a function which vests in the tribunal.”

17 The NGT has in the present case abdicated its jurisdiction and entrusted judicial functions to an administrative expert committee. An expert committee may be able to assist the NGT, for instance, by carrying out a fact-finding exercise, but the adjudication has to be by the NGT. This is not a delegable function. Thus, the order impugned in the appeal cannot be sustained. The consequence of the impugned order is to efface the meticulous exercise which was carried out by the earlier Benches. Valuable time has been lost in the meantime and crucial issues pertaining to the environment in the present case have been placed on the back-burner.

18 Hence, we are of the view that it would be appropriate to set aside the impugned order and to restore OA No 81 of 2014 (WZ) to the file of the NGT. We accordingly allow the appeal and set aside the impugned order dated 28 September 2018. OA No 81 of 2014 (WZ) is restored to the file of the NGT. The NGT shall commence with the hearing of the proceedings from the stage which was arrived at before the impugned order dated 28 September 2018 was passed. Unfortunately, more than three years have

passed in the meantime, a delay which could have been avoided had the NGT proceeded to adjudicate upon the issues which were raised before it.

19 This Court has not expressed any opinion on the merits of the issues which are raised before the NGT. The NGT will take an appropriate view and issue appropriate directions in continuation of the directions which hold the field, after hearing the parties.

20 The Court was apprised that the impugned order was passed by the Principal Bench since the Western Zone Bench of the NGT was not functioning at the relevant time. Hence, OA No 81 of 2014 (WZ) may now be heard by the Bench which is assigned with the requisite jurisdiction to hear the subject matter of the OA.

21 The appeal is accordingly allowed in the above terms.

22 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Bela M Trivedi]

New Delhi;
January 21, 2022
CKB

- 1 Admit.
- 2 The appeal is allowed in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)

A.R. - cum - P.S.

(Signed Reportable Judgment is placed on the file)

(SAROJ KUMARI GAUR)

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Proof of Service

Raghunath Mahabal <mahabal60@gmail.com>

36_2024 OA Irba Konapure Vs Uol (R-10 J K Developers Adv RBM): Next Date: 10/12/025:R10:Written Arguments n Summary

1 message

Raghunath Mahabal <mahabal60@gmail.com>

10 December 2025 at 12:01

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To: The Hon'ble Registrar, NGT WZ Pune

1. I am pleased to circulate the Written Arguments and Summary as above under the subject

Regards

Advocate for Respondent No.10

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4 attachments

- 2022-01-21 SC Judg CA No.1046_2019 Kantha Vibhag Yuva Koli Samaj Parivartan Trust Vs SoG.pdf
145K
- 2025-08-04 SC Judg CA Nos. 757-760_2013 DPCC Vs Lodhi Property.pdf
274K
- 2025-09-01 SC Judg CA 8119_2022 Triveni Supremetoday.pdf
554K
- 2025-12-10 R-10 JK Developers Written Submissions final.pdf
7040K