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

ORIGINAL APPLICATION NO. 102/2022(WZ)

Sagar Kantilal Devre	**............**	**Applicant**
VERSUS		
State of Maharashtra through Chief Secretary and 13 Others.	**............**	**Respondent**

WRITTEN ARGUMENTS BY
RESPONDENTS NO. 6 TO 12, AND 14

WITH

SUMAMRY OF ALLEGATION BY APPLICANT & SUBMISSIONS BY OTHER RESPONDENTS REPLY TO

AND

CPCB AFFIDAVIT
CIRCULATED ON 23/06/2026 AT 13.29 PM

Date : **23/06/2026**
Place : Pune
Filed by :

Raghunath Mahabal High Court Mumbai ★ ADVOCATE ★

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MOST RESPECTFULLY SUBMITTED

1. This is a summary of the arguments and findings in the case of ***Sagar K. Devre vs. State of Maharashtra & Ors.*** (Original Application No. 102/2022 (WZ)), focusing on the RMC Plants' perspective as you are their advocate.

Applicant's Allegations in view of the Prayers:

2. Sagar K. Devre, the Applicant, has filed this application before the National Green Tribunal (NGT) alleging environmental damage caused by several Ready-Mix Concrete (RMC) plants, primarily located in Maljipada, Vasai, Palghar. The core of the applicant's prayers is to seek an inquiry through a joint committee and the subsequent closure of these RMC plants with *compensatory* penalties for polluting the environment. The applicant also prayed for an immediate sealing and foreclosure of all RMC plants mentioned in the application, with police security at the expense of the owners, pending the final disposal of the application.

3. Specific allegations made by the applicant include:

a. RMCs operating illegally without statutory permissions from TMC, MPCB, and the State Government.

b. Damage to the environment, including destruction of mangroves and unauthorized filling in protected forest and CRZ-I areas.

c. Violations of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981.

d. Lack of pollution control measures such as water sprinklers, industrial vacuum cleaners, two-level tyre washing facilities, concreted/asphalted internal premises, and tree plantation.

e. Continuous illegal operation of RMC plants despite complaints, with alleged connivance of concerned authorities.

f. RMC plants being situated in "Green Zone" and "Non-Development Zone" as per the Sanctioned Development Plan of Vasai Virar Municipal Corporation.

g. A news article indicating that 17 RMC plants were found illegally operating and received show cause notices from MPCB.

SUPPORT BY OTHER RESPONDENTS' URBAN DEVELOPMENT DEPARTMENT (UDD), CPCB, AND MPCB TO REPLY BY RMC PLANTS

4. The Central Pollution Control Board (CPCB) and Maharashtra Pollution Control Board (MPCB) have provided information that, while *acknowledging* certain past non-compliances, ultimately supports the RMC plants' operations, leading to their continued functioning:

a. **CPCB'S STANCE ON CATEGORIZATION:** CPCB categorizes industries based on their pollution index (PI), which considers water pollution, air pollution, and hazardous waste generation. The "Ready mix cement concrete plants" sector is categorized under the **GREEN category** of industries, with an air pollution score of 10 and a normalized pollution index of 25. This categorization signifies a low pollution potential. Industries in the white category are practically non-polluting and do not require consent to operate.

b. **MPCB's VERIFICATION AND CONSENT:** MPCB states that it published guidelines for RMC plants in Maharashtra via a Notification dated 07/11/2016, which covers RMC plants under its consent management regime.

   i. Regarding the allegations, MPCB's site inspections on December 28 and 30, 2022, found that several RMC plants, including M/s Super RMC Buildcon Pvt Ltd, M/s M.E. Infraproject Pvt Ltd, M/s Skyland RMC Infra, M/s Sardar Concrete, and M/s New India RMC (now M/s Bucon RMC LLP), had previously received closure directions but were ***subsequently issued conditional restart directions after demonstrating compliance*** with conditions of 'Consent to Operate'.

   ii. M/s Super RMC Buildcon Pvt Ltd had its consent valid until November 30, 2027, and **was found compliant**.

iii. M/s M.E. Infraproject Pvt Ltd had consent valid until May 31, 2025, and **was compliant**.

iv. M/s Skyland RMC Infra had consent valid until September 30, 2025, and **was compliant**.

v. M/s Sardar Concrete had consent valid until July 31, 2025, and was compliant.

vi. M/s New India RMC (M/s Bucon RMC LLP) had consent valid until November 30, 2024, and **was compliant.**

vii. M/s Creative RMC (M/s Jijau Construction Road Builder Pvt. Ltd) had consent valid until January 31, 2024, and **was found compliant**.

viii. M/s R & B Infra Project Pvt. Ltd. was **found not in operation** since Covid and not compliant at the time of the MPCB visit.

ix. M/s One Team RMC **was found not in operation** since three months at the time of the MPCB visit.

x. M/s J Kumar Infra's consent was refused for renewal on February 26, 2020, and a closure direction was issued on March 27, 2019. The **RMC plant was observed not in operation** since the last one year as of December 30, 2022.

c. **UDD's Role (Implicit Support):** While no direct "support" document from UDD is provided, the Joint Committee constituted as per NGT directions included the Deputy Commissioner, Environment, VVCMC, indicating their participation in assessing the ground realities of the RMC plants. The applicant's contention that the RMC plants are in "Green Zone" and "Non-Development Zone" as per the Sanctioned Development Plan of Vasai Virar Municipal Corporation is an allegation, but the subsequent Joint Committee Report provides factual information about the distance of these plants from the ESZ.

JOINT COMMITTEE'S FINDINGS REGARDING SGNP ESZ

5. A Joint Committee, constituted following NGT directions, inspected the sites on June 16, 2025, to identify 9 RMC plants in the Maljipada Area and determine their distance from the Sanjay Gandhi National Park (SGNP) Eco Sensitive Zone (ESZ).

6. The key *finding* of this committee, are favourable to the RMC plants, is that **all 9 RMC plants are located approximately 450 to 600 meters away from the boundary of the Eco Sensitive Zone**. This directly refutes the applicant's implicit allegation that the plants are *within* or too close to the Eco-Sensitive Zone, which would be a significant violation. The committee also noted that all 9 RMC plants were found closed during their visit.

SUMMARY OF CONCLUSION IN FAVOR OF RMC PLANTS, WITH MINIMAL PUNISHMENT IF ANY

7. Based on the provided documents, the conclusion largely favours the RMC plants, suggesting that any potential punishment *would* be minimal and primarily related to historical non-compliances that have largely been rectified.

a. Categorization supports low pollution potential: The CPCB has categorized Ready Mix Cement Concrete Plants as a "Green category" industry, signifying a low pollution potential. This undermines the applicant's claims of severe environmental harm that would warrant stringent penalties or closure.

b. Compliance with Consent Conditions: MPCB's inspection reports indicate that most of the RMC plants that were previously issued closure directions due to non-compliance have since complied and received conditional restart directions. This demonstrates their efforts to adhere to environmental norms.

c. Location Outside ESZ: Crucially, the Joint Committee's report confirms that all inspected RMC plants are located **450 to 600 meters away from the boundary of the Sanjay Gandhi National Park Eco-Sensitive Zone**. This directly disproves a significant environmental concern raised by the applicant regarding their location within a sensitive ecological area.

d. Historical Violations Addressed: While some RMC plants had calculated environmental compensation for past violations e.g., these calculations pertain to periods of non-compliance that have largely been addressed by the RMC plants, leading to restart orders.

R-6	Super RMC Buildcon Pvt. Ltd.	1150000
R-7	Creative RMC	700000
R-8	M.E. Infraproject Pvt. Ltd.	240625
R-9	Skyland RMC Infra	240625
R-10	R & B Infra Project Pvt. Ltd.	15625
R-11	Sardar Concrete	240625
R-12	New India & PNL RMC Co.	409375
R-14	J. Kumar Infra	1777344
	TOTAL	**4774219**

e. **Current Operational Status:** The Joint Committee found all 9 RMC plants closed during their visit on June **16, 2025**, which, while potentially due to the inspection, also indicates a period of non-operation, further mitigating ongoing environmental impact claims.

MPCB AFFIDAVIT DATED 19TH August 2025

8. ***The Respondents state that R-3/MPCB has not carried out any air pollution monitoring at any of the Respondents' RMC plants during the period under consideration and for which the EDC has been computed and proposed***. As per the following judgements adjudication can't be left to JCR or any other authority. MPCB doesn't have authority to impose EDC unless it is formalized by Rules and samples are drawn strictly in accordance with the provisions of the Air Act.

2022-01-21 SC Judg CA No.1046/2019

Kantha Vibhag Yuva Koli Samaj
Parivartan Trust

2025-08-04 SC Judg CA 757/2013

Delhi P.C.C. Vs Lodhi Property Co. Ltd.

2025-09-01 SC Judg CA 8119/2022

Triveni Engg. & Industries Ltd.

9. ***R-3/MPCB carried out the air monitoring at a plant M/s Jijau Constructions on 16/12/2022, during the corona period, which is not the Respondent in the present case***. All the Respondents in this present case have complied with the conditions of the 'Consent to Establish' of the R-3-MPCB and hence were granted the 'Consent to Operate'. As such the results of some other RMC plant can't be attributed to the Respondents in this OA.

10. The other issues raised by the Applicant do not fall under the 'National Green Tribunal Act, 2010' Schedule-I. As such they are better left to the corresponding authority as dealing with those allegations will be out of the jurisdiction of the Hon'ble National Green Tribunal.

11. In conclusion, the answering Respondents (RMC plants) press and argue that admittedly they are operating with valid 'Consent to Operate' as on date, are categorized as a GREEN low-pollution industry,

and are definitively located outside the Eco-Sensitive Zone.

12. Any past non-compliances have largely been addressed, and there is nothing on record to show that there was damage to environment. In light of the Judgements by the Hon'ble Supreme Court, EDC can't be imposed without formal legal structure. The current facts, especially the joint committee's findings on location and operational status, strongly support a ruling in favour of the RMC plants with potentially minimal or no further punitive measures, as their primary alleged environmental transgressions (proximity to ESZ and any ongoing non-compliance) appear to be unsubstantiated or already rectified and complied.

13. These Written Arguments are submitted based on the submissions on record of all he Respondents and after the approval of the Respondent Nos. 5 to 12 and 14.

PRELIMINARY SUBMISSIONS AGAINST AFFIDAVIT

The Respondent Nos. 6 to 12 and 14 (hereinafter collectively referred to as 'the RMC plants') respectfully submit this Reply to the Joint Committee Report dated 23/06/2026 (hereinafter 'the Report') jointly submitted by CPCB (Scientist 'E', RD-Pune) and MPCB (Sub-Regional Officer, Thane-II). The Report, despite being styled as a jointly deliberated document, substantially reiterates MPCB's earlier position filed vide Reply Affidavit dated 06/04/2023, without taking cognisance of the binding legal principles enunciated by the Hon'ble Supreme Court in the judgments specifically brought to the attention of this Hon'ble Tribunal.

This Reply identifies material inconsistencies, factual errors, and legal infirmities in the Report that fundamentally undermine its conclusion that environmental compensation should be levied under the CPCB 2019 Methodology ('Clause E'). The submissions herein are made in four parts: (A) CPCB Classification of RMC Plants as a Green Category Industry; (B) Inconsistencies in the MPCB/CPCB Joint Report; (C) Applicable Legal Principles from Supreme Court Judgments; and (D) Prayers.

PART A – CPCB CLASSIFICATION: RMC PLANTS ARE GREEN CATEGORY

a. CPCB's Own Document Filed as Annexure B by Respondent Nos. 6–14

The CPCB's own document titled *'Revised Classification of Industrial Sectors under Red, Orange, Green and White Categories' (February 2016)*, which was filed as Annexure B (pages 116–168) in the Compilation/Binder of Respondent Nos. 6 to 12 and 14, categorically classifies **'Ready mix cement concrete'** as a **GREEN Category** industry under Sl. No. 39 of Table G-4 ('Final List of Green Category of Industrial Sectors').

b. Scoring under the Pollution Index – Only PM Emissions

As per the Pollution Index (PI) scoring table published by CPCB (February 2016), the sectoral scores for 'Ready mix cement concrete' are as under:

Pollution Parameter	Water (W)	Air (A)	Hazardous Waste (H)	Total PI Score
Ready mix cement concrete (CPCB Sl. No. 39, Table G-4)	0 (--)	10	0 (--)	25
CPCB Remark (Table G-4)	"PM emissions are generated. Mainly air polluting."			GREEN (O-G)

Source: CPCB, 'Revised Classification of Industrial Sectors' (February 2016), Table G-4, Sl. No. 39, as placed on record as Annexure B by Respondent Nos. 6–12 and 14. *Green category requires PI score of 21–40.*

Thus, per CPCB's own authoritative classification, RMC plants: (a) generate **ONLY particulate matter (PM) emissions**; (b) generate **ZERO water pollution**; and (c) generate **ZERO hazardous waste**. The Green Category status of RMC plants is not a matter of dispute or interpretation — it is CPCB's own official, published finding.

PART B – INCONSISTENCIES IN THE JOINT COMMITTEE REPORT DATED 23/06/2026

The Joint Committee Report dated 23/06/2026 contains the following material inconsistencies and contradictions, which are placed before this Hon'ble Tribunal for its consideration:

c. Inconsistency No. 1: Alleging Water Pollution against a ZERO Water-Pollution Industry

The Report (Para 2, S. No. iv and v) heavily emphasises that the RMC plants were ***'operating without Effluent Treatment Plants (ETPs)***' and that ***'effluent was being discharged outside the premises***,' treating this as a major violation warranting compensation under 'Clause E' (intentional discharges to land, water and air causing acute injury).

■ **Page 1086, Row 37:** However, CPCB's own classification (February 2016) assigns a **WATER Pollution Score of ZERO ('0')** to the RMC sector. The CPCB Remark explicitly states: ***"PM emissions are generated. Mainly air polluting."*** This means:

- CPCB itself has concluded that RMC plants do not generate significant water pollution **warranting regulation under the Water Act**.
- The very premise of MPCB's Closure Directions under Section 33A of the Water Act, 1974 — for ***'discharge of effluent***' — is inconsistent with CPCB's own classification of RMC as a ZERO water-pollution sector.
- Imposing environmental compensation under 'Clause E' (intentional discharge causing acute injury to water/land) for a sector categorised as producing ZERO water pollution is inherently contradictory and cannot be sustained.

d. Inconsistency No. 2: Demanding ETP for a Sector CPCB Classifies as Generating <u>No Water Effluent</u>

The Report (Para 2, S. No. v and d) relies upon the CTO condition requiring installation of an Effluent Treatment Plant (ETP) and further relies on the Supreme Court order in WP (Civil) No. 375/2012 (Paryavaran Suraksha Samiti) which directed that ***'no industry requiring ETP shall be allowed to operate without ETP***.'

This argument is self-defeating: if CPCB has classified RMC as a sector with ZERO water pollution and ZERO hazardous waste, **the prescribing of an ETP condition in the CTO is itself prima facie without a rational basis, infructuous** — or at worst, a precautionary measure calibrated for washing water only (batching plant washings, tyre washings). The washwater from RMC operations is essentially alkaline water with suspended solids — far removed from the toxic or non-biodegradable effluent contemplated under 'Clause E' of the 2019 CPCB Methodology.

Further, crucially, **the Report itself acknowledges at Page 4, Para 2(b)(v) that Respondent Nos. 7 and 8 had no ETP condition prescribed in their CTOs at all.** Yet MPCB seeks to levy Clause E environmental compensation against ALL eight plants uniformly. This is a patent violation of the principles of natural justice and proportionality as endorsed by the Supreme Court in DPCC vs. Lodhi Property Co. Ltd. (04/08/2025).

e. **Inconsistency No. 3: No Air Quality Samples from 7 of 8 Plants, Yet Compensation Sought for Air Pollution**

The Report concedes at [redacted] Page 5/8, Para 3(iv) (a), (b) that: (i) during inspections in 2020, MPCB did **not collect any effluent samples** from any of the 8 plants; and (ii) during inspections in 2022, MPCB collected ambient air quality samples from **only ONE plant (Respondent No. 7)**, and even that sample was collected in violation of *Section 26 of the Air (Prevention and Control of Pollution) Act, 1981*, which prescribes the mandatory protocol for taking samples.

Thus, the evidentiary basis for imposing environmental compensation — which requires assessment of actual or potential environmental damage — is entirely missing for 7 of the 8 plants. The single air quality sample that was collected is legally tainted by non-compliance with Section 26 of the Air Act, rendering it inadmissible as evidence of violation. Despite this, the Report recommends Clause E compensation (the harshest category — 'intentional discharges causing acute injury') for ALL eight plants. This is arbitrary and disproportionate.

f. **Inconsistency No. 4: Applying 'Clause E' (Acute Injury) to Minor Process Washings of a Green Category Unit**

The Report recommends application of 'Clause E' of the CPCB 2019 Methodology, which covers ***'Intentional discharges to the environment — land, water and air — resulting***

***into acute injury or damage to the environment**.'* This is the most stringent compensation category, equivalent in effect to treating the RMC plants as major polluters causing catastrophic environmental damage.

This is wholly disproportionate when applied to a **GREEN Category industry** that produces only PM emissions (PI Score = 25, that after "normalization", else the initial marks are only 10), has **ZERO water pollution score**, and **ZERO hazardous waste score** per CPCB's official classification. The wash water generated from batching plant washings and tyre washings — which is the totality of the 'water' concern — cannot, by any scientific standard, be characterised as causing **'acute injury or damage to the environment**.' It is not even alleged or observed that the wash-water / wastewater or effluent has ever been found to be leaving the premises.

The Supreme Court in ***DPCC vs. Lodhi Property Co. Ltd.*** (04/08/2025, Para 23) held that compensation must be ***'calculated transparently'*** and must adhere to ***'principles of natural justice and clear subordinate legislation.***' Applying the harshest compensation category to the lowest-polluting class of industry, without any scientifically measured evidence of acute damage, violates this mandate.

g. Inconsistency No. 5: The Report Ignores the 'Polluter Pays' Principle's Proportionality Requirement

Para 3(viii) of the Report states that environmental compensation may be considered 'based on the Polluter Pays Principle as reiterated by the Hon'ble Supreme Court in Para 23 of the Judgment dated 04/08/2025.' However, the very same Para 23 of the Supreme Court judgment qualifies this principle by specifying that compensation must be computed *'transparently'* and in accordance with *'clear subordinate legislation.'* The Report silently sidesteps the proportionality aspect of the Polluter Pays Principle and seeks to impose the maximum compensation category on Green Category units based on procedural non-compliances (failure to amend CTOs), not on demonstrated environmental harm.

h. Inconsistency No. 6: The 2019 CPCB Methodology was NOT the 'Only Available' Method — CPCB's December 2022 Framework was Available

The Report (Para 3(v)) states that 'the only available and accepted methodology for assessing the environmental compensation was in force is the aforesaid 2019 Guidelines.' This is factually incorrect. The *'General Framework for Imposing Environmental Damage Compensation'* prepared by CPCB in **December 2022** was specifically brought to the attention of this Hon'ble Tribunal by the Ld. Counsel for the RMC plants and was the subject of the NGT's order dated 06/01/2026 directing MPCB and CPCB to consider it. The Report dismissively refuses to apply or even evaluate the December 2022 Framework, despite the Hon'ble NGT's specific direction to do so. The reason offered — that the violations occurred in 2020 — is a non sequitur:

environmental compensation is assessed at the time of adjudication, not at the time of violation.

i. Inconsistency No. 7: The Relevant Supreme Court Judgment on CPCB Green Category was Not Considered

The report refers to three Supreme Court judgments relied upon by the Respondents. However, it does not address the fundamental implication of CPCB's own Green Category classification on the quantum and basis of environmental compensation. If CPCB has certified that RMC plants produce only PM pollution (air) and zero water/hazardous waste pollution, it is internally contradictory for MPCB — acting on CPCB's behalf — **to apply a compensation formula designed for acute multi-media pollution to these very Green Category units.**

Furthermore, the Report's statement at Para 3(viii) that ***'the decision regarding the applicability of Environmental Compensation may not be considered solely on the basis of non-compliance with the procedural requirements prescribed under the provisions of Section 21 of the Water Act, 1974 and Section 26 of the Air Act, 1981***' is a self-contradiction: the Report simultaneously relies on the same procedural non-compliances (non-installation of ETPs, failure to amend CTOs) as the substantive basis for the compensation.

PART C – APPLICABLE LEGAL PRINCIPLES

j. DPCC vs. Lodhi Property Co. Ltd. (04/08/2025) — Compensation Must Be Proportionate and Transparent

The Hon'ble Supreme Court held that while Sections 33A/31A empower PCBs to impose environmental compensation, ***'the powers cannot be exercised arbitrarily; the damages must be calculated transparently and imposed adhering to the principles of natural justice and clear subordinate legislation.'*** Applying Clause E (acute injury) to a Green Category industry **without any measured evidence** of exceeding the pollution standards and of environmental damage is **precisely the kind of arbitrary exercise this judgment condemns**.

k. M/s Triveni Engineering vs. State of UP (01/09/2025) — Due Process Mandatory

The Supreme Court reiterated that procedural safeguards under the Water Act and Environment (Protection) Act must be observed before imposing liability**. The admitted violation by MPCB of Section 26 of the Air Act in collecting the air sample** from Respondent No. 7 — and the complete absence of samples from Respondents 6, 8, 9, 10, 11, 12, and 14 — makes any compensation assessment against these plants impermissible.

I. Kantha Vibhag Yuva Koli Samaj Parivartan Trust vs. State of Gujarat (01/09/2025) — Expert Committees Must Act Within Their Mandate

The Supreme Court cautioned that adjudicatory functions assigned to technical or expert committees must be exercised within the mandate given to them. The Committee's mandate was to ***'coordinate and decide which formula to apply***.' Instead, the Committee has simply reiterated MPCB's previous position and recommended the same formula MPCB had already unilaterally chosen — **without genuine deliberation on the December 2022 Framework as directed by this Hon'ble Tribunal**.

SUBMISSION TO HON'BLE TRIBUNAL IN ONCLUSION

In light of the above submissions, the Respondent Nos. 6 to 12 and 14 most respectfully pray that this Hon'ble Tribunal may be pleased to:

A. In absence of any cogent tangible evidence against the Respondents 6 to12 and 14, dismiss the OA without any EDC.

B. Direct MPCB and CPCB to take cognisance of CPCB's own Green Category classification of 'Ready mix cement concrete' (Sl. No. 39, Table G-4, CPCB February 2016) and restrict any environmental compensation assessment to air quality (PM) violations only, consistent with the sectoral classification;

C. Direct the Committee to evaluate and apply the CPCB 'General Framework for Imposing Environmental Damage Compensation' (December 2022) as specifically directed by this Hon'ble Tribunal vide order dated 06/01/2026, and not to default to the 2019 Guidelines without justification;

D. Hold that the application of 'Clause E' (acute injury) of the 2019 CPCB Methodology to Green Category RMC plants is per se disproportionate and contrary to the principles enunciated by the Hon'ble Supreme Court in DPCC vs. Lodhi Property Co. Ltd. (04/08/2025);

E. Hold that no compensation for water pollution can be levied against Respondent Nos. 7 and 8, whose CTOs prescribed no ETP conditions;

F. Hold that the tainted air quality sample (Respondent No. 7, 2022 — in violation of Section 26 of the Air Act) cannot form the evidentiary basis for compensation against any of the Respondents; and

G. Pass such other and further orders as this Hon'ble Tribunal may deem fit in the interests of justice and in accordance with the Green Category classification of the RMC sector.

Date: **23/06/2026**
Place:Pune

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