

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH AT PUNE  
ORIGINAL APPLICATION NO. 59/2019

IN THE MATTER OF:

MR. SAKHARAM ASARAM KALE & ORS ... APPLICANTS

**VERSUS**

THE REGIONAL OFFICER, MPCB & ORS. ... RESPONDENTS

**WRITTEN NOTES OF SUBMISSION ON BEHALF OF ORIGINAL APPLICANT**

That the Original Applicant would like to submit the written notes of submission as below:

<b>Part</b>	<b>Para</b>	<b>Description</b>
Part-A	1	Brief Facts
Part-B	2	Important Dates & Events
Part-C	3	NH-211 Violations
Part-D	4	R-5-PP:Stone Crushers, RMC, Hot Mix, Wet Mix Plant Violations
Part-E	5	Contentions from OA
Part-F	6	Objections to Joint Committee Inspection Report
Part-G	7	Stand of R-1: MPCB
Part-H	8	Stand of R-2-4: NHAI
Part-I	9	Stand of R-5: MRMPL-PP
Part-J	10	Stand of R-6: SEIAA
Part-K	11	Stand of R-7: PCCF
Part-L	12	Environment Damage Compensation-EDC
Part-M	13	Request/Suggestions on behalf of Original Applicant seeking Reliefs/Directions/Orders

**BRIEF FACTS**

1. That these Applicant filed Original Application No. 59/2019(WZ) for violation of terms & Condition of EC dated 23.06.2014 issued for construction of "National Highway No. 211 from Solapur to Dhule", without CTE/CTO, and Establishment & operations of RMC/Hot mix plants plant without CTE/CTO & also, in violation of terms & condition of CTE/CTO granted to the RMC/Hot mix plants m U/s. 14, 15, 18 & 20 of NGT Act, 2010 seeking closure of RMC Plant, compliance to proposed directions, restitution & restoration

of area, non-collection of toll till compliance to conditions from EC and appropriate reliefs in the facts & circumstances of case.

- 1.1** That this Hon'ble NGT vide its order dated 03.09.2019 constituted a Joint Committee comprising of MPCB & SEIAA for submission of factual & action taken report and also, impleaded SEIAA as Respondent No. 6, but SEIAA did not file any reply till date and issued notice. That the said committee visited the NH-211 & RMC Plants of Respondent No. 6 on 11.10.2019 and submitted its Report.
- 1.2** That this Hon'ble NGT vide its order dated 17.10.2019 have directed PCCF to file its report on tree felling & Forest Clearance and also, MPCB directed to compute the Environment Damage Compensation for number of non-compliance by 5 Hot Mix units of Respondent No. 6- MRMPL-PP.
- 1.3** That this Hon'ble NGT vide its order dated 17.01.2020 again directed the NHAI & MPCB to submit the factual & action taken report. Thereafter, this Hon'ble NGT vide its Order dated 03.09.2021 issued notices to Respondents No. 2 to 4 & 6 and noted the feeling of large number of trees.
- 1.4** **CALLOUS ATTITUDE OF PCCF:** That the Additional PCCF through MPCB have served casual, cursory & unscientific documents dated 02.12.2021, which is not placed on record. However, PCCF failed to comply the order dated 17.10.2019, 14.11.2019, 08.10.2021, 03.12.2021, 10.04.2023 & 05.07.2023 passed by this Hon'ble NGT. Thereafter, this Hon'ble NGT vide its Order dated 05.07.2023 impleaded PCCF as Respondent No. 7.
- 1.5** That, the Respondents have filed their replies as per below details;

Sr.	Respondent	Date	Page No.	Remarks
1.	OA No. 59/2019	26.07.2019	01-46	
2.	JC Report	11.10.2019	47-75	SEIAA & MPCB
3.	R-1-MPCB	11.11.2019	76-86	Action Taken Report
4.	Service Affidavit	04.01.2020	87-91	
5.	R-1-MPCB	24.02.2020	92-126	MPCB-1 <sup>st</sup> Reply
6.	R-1-MPCB	30.09.2020	127-131	Additional Reply
7.	Service Affidavit	05.10.2021	132-141	
8.	R-2-4-NHAI	24.01.2022	142-215	
9.	R-5-MRMPL-PP	07.04.2023	216-342	PP-1 <sup>st</sup> Reply
10.	R-5-MRMPL-PP	26.06.2023	343-629	Additional Reply
11.	R-6-SEIAA			No Reply
12.	R-7-PCCF			No Reply

**1.6** That, the R-6-SEIAA & R-7-PCCF have not filed their reply and therefore, these Original Applicants were not able close their pleading by way of objections as well as rejoinder to the replies of Respondents. And filling this Rejoinder & objections, with leave of this Hon'ble NGT to file rejoinder, if this Hon'ble NGT give opportunity to R-6 & R-7 to file reply.

## **2. IMPORTANT DATES & EVENTS:**

That the following dates & events shows the intentional infringement of environmental law on part of R-2-4-NHAI & R-5-PP as below

Sr.	Date	Event	Remark
		NH-211	
1.	24.04.2012 15.05.2012 21.12.2013	Minutes of Public Hearing	P@22-27
2.	23.06.2014	Conditional Environment Clearance to NH-211 by MoEFCC	P@28-34
3.	20.06.2015	SDO Kallamb: Tree felling permission; 5106 Trees	P@171-172
4.	07.07.2015	SDO Bhoom: Tree felling permission; 44 Trees	P@174-175
5.	13.07.2015	SDO Beed: Tree felling permission; 167 Trees	P@177

6.	13.07.2015	SDO Beed: Tree felling permission; _____ Trees; Blanket permission	P@178
7.	06.08.2015	SDO Ambad: Tree felling permission; 1752 Trees	P@180-181
8.	23.07.2015	SDO Aurangabad: Tree felling permission; 820 Trees	P@185-186
9.	24.07.2015	SDO Aurangabad: Tree felling permission; 397 Trees	P@190-191
10.	15.12.2018	Complaint of the Applicant	P@41-42
11.	24.04.2019	Air Monitoring Reports	P@46
<b>RMC Plant: Khed</b>			
12.	14.11.2014	Consent to Establish (CTE)	P@370
13.	29.01.2015	Consent to Operate (CTO) valid up to 31.12.2015	P@374
14.	06.02.2019	Proposed Direction issued by MPCB	P@43
15.	05.11.2019	Interim Orders issued by MPCB	P@77
16.	18.02.2020	MPCB Notice for Environmental Compensation	P@393-394
<b>RMC Plant: Murma</b>			
17.	27.11.2015	Consent to Establish (CTE)	P@395
18.	14.10.2016	Consent to Operate (CTO) valid up to 30.06.2016	P@399
19.	05.11.2019	Interim Orders issued by MPCB	P@84-85
20.	18.02.2020	MPCB Notice for Environmental Compensation	P@428-429
<b>RMC Plant: Sasewadi</b>			
21.	No	Consent to Establish (CTE)	
22.	27.11.2015	Consent to Operate (CTO) valid up to 31.12.2017	P@430
23.	05.11.2019	Interim Orders issued by MPCB	P@80-81
24.	18.02.2020	MPCB Notice for Environmental Compensation	P@448-449
<b>RMC Plant: Talewadi</b>			
25.	07.10.2015	Consent to Establish (CTE)	P@450
26.	25.04.2016	Consent to Operate (CTO) valid up to 31.10.2020	P@454
27.	05.11.2019	Interim Orders issued by MPCB	P@82-83
28.	18.02.2020	MPCB Notice for Environmental Compensation	P@468-469
<b>RMC Plant: Washi</b>			
29.	No CTE	Consent to Establish (CTE)	
30.	20.03.2017	Consent to Operate granted for the validity period up to 30.09.2024	P@470
31.	05.11.2019	Interim Orders issued by MPCB	P@78-79
32.	18.02.2020	MPCB Notice for Environmental Compensation	

- 3. CONTENTIONS FROM OA:** That the Applicant have raised following issues for the consideration of this Hon'ble NGT are as below:

Para	Contentions
¶5(a); P@4	Dust & air pollution level during construction stage, Cutting of trees, Rain Water Harvesting, Dust problem from the road side, Noise level due to construction activity, Type of trees to be planted, Controlling of dust & noise pollution along the boundary of junior college (Gyanodyog Mahavidyalaya), Provision for the display of air pollutants in the major habitation area etc. <b>(Annex-A; P@22-27)</b>
¶5(b); P@4-5	MoEFCC by EC dated 23-06-2014 has imposed necessary conditions in respect of; Cutting of trees, Rain Water Harvesting, Green Belt development, Side Walk to be provided along the bridges, Minimum of trees to be cut down, to set up separate Environmental Management Cell for effective implementation of the stipulated environmental safe guards etc. <b>(Annex-B; P@28-34)</b>
¶5(c) & (d); P@5-6	R-5; under obligation of obtaining CTE/CTO for Crushed Stone Metals, Hot Mix Plants, Wet Mix and Ready Mix Concrete from MPCB R-5; granted combined CTO by MPCB dated 25.02.2016 on condition of installation of Pollution control devices for air emissions, dust and other air pollutants, comprehensive treatment system for trade & sewage effluent, treatment of Hazardous & other Waste <b>(Annex-C; P@35-40)</b>
¶5(e); P@6	Applicant Complaint; 15.12.2018; R-5 Pollution; Not provided necessary pollution control devices & trade effluent; causing serious pollution; <b>(Annex-D; P@41-42)</b>
¶5(f); P@6-7	Applicant RTI; MPCB provided information; MPCB Visit Reports-02.01.2019, SRO-MPCB proposals-23.01.2019, MPCB Proposed Directions-06.02.2019, <b>(Annex-E; P@43-45)</b>
¶5(g); P@7-8	Air Quality Monitoring: Osmanabad Bypass *PM <sub>10</sub> has observed to be 681 as against 100 µg/M <sup>3</sup> *PM <sub>2.5</sub> has observed 126 as against 60 µg/M <sup>3</sup> *said area severely affected by air pollution and *No precautionary & preventive measures are taken *Reports Dated 19.04.2019 & 24.04.2019 <b>(Annex-F; P@46)</b>
¶6; P@8-10	<b>VIOLATION OF TERMS &amp; CONDITIONS OF ENVIRONMENTAL CLEARANCE DATED 23.06.2014</b>

	<p>6(b); EC Condition No. (P@8-10 of OA)          (iv) Rain Water Harvesting at every 500 Mtrs. (P@30)          (vii) The responses/commitments made during public hearing (P@30)          (ix) Green Belt development shall be undertaken as suggested in EMP (P@30)          (xii) Sidewalks shall be provided along the bridges (P@30)          (xiii) The drain shall be at least 1 m away from the toe of the embankment of the road adopting IRC guidelines (P@30)</p> <p><b>6(c) to 6 (m): R-2 to 4:</b> Not complied conditions from Public Hearing, not provided RWH, water sprinkling arrangement, green belt, noise barriers at sensitive locations of schools, colleges, and hospitals, concrete and fugitive noise barriers along the sensitive precipitator, noise barriers along the Jr. College, Gyanodyog Mahavidyala located near Yermala, No tree Plantation in multiple rows, PP not provided display board for displaying air pollutants in the major habitation area, Not provided green belt development along the road side, Not provided side walk along the bridge, Not provided drain 1 mtr. away from the flow of the embankment of the road (P@8-10 of OA)</p>
¶7; P@10-11	<p><b>Grounds of Application:</b></p> <p>¶7(a): R-5 Non-compliance of CTO's          ¶7(b): R-5 Not provided metallic Road          ¶7(c): No wind breaking walls at stone crushers, pollutant spread in agricultural land          ¶7(d): No adequate height stacks, No cover at material transfer point          ¶7(e): Not operating ETP Plant, causing pollution in area          ¶7(f): No water sprinkling Arrangements, No sufficient tree plantation at periphery, aggravate air pollution in agriculture filed          ¶7(g): MPCB Consents expired and units are running without CTO's          ¶7(h): R-2 to R-5 committed violations of EC &amp; CTO's          ¶7(i): MPCB PD dated 06.02.2019, R-5 not taken effective steps</p>
¶8; P@12	<p>*Proposed directions of MPCB vide dated 06.02.2019,          *No further Action,          *This Application for appropriate relief &amp; compensation for restitution &amp; restoration,</p>

	*Substantial question related to legal right & environment
¶9; P@12-13	R-2, 3 & 4-NHAI: Not ensured a development of; *Green Belt along the project road to reduce dust and air pollution level, *Condition regarding cutting of minimum trees, *Providing rain water harvesting along the project road, *Type of trees to be planted to control dust and noise pollution and to protect Dyanodaya Mahavidyalaya students from dust and noise pollution etc. *Nowhere, display boards of air pollutants in the major habitation area have been installed. *Thereby, R-2 to 5 have not complied important environmental norms & conditions in EC dated 23.06.2014
¶10; P@13-14	Operations of RMC, Wet Mix, Hot Mix, Stone Crushing plant by R-5 for R-2 to 4 on various Locations: <ol style="list-style-type: none"> <li>1. S. No. 243, At Village-Talewadi, Taluka-Georai, District-Beed</li> <li>2. Gut No.85/1, At Village-Sasewadi Shivar, Manjarsumbha, Taluka and District-Beed</li> <li>3. Gut No.89, At Village-Washi, Taluka-Washi, District-Osmanabad (P@/56)</li> <li>4. Gut No.172 &amp; 174, At Village-Murma, Taluka-Paithan, District-Aurangabad</li> <li>5. Gat No. 264/1, 263, 264/2, Village-Khed/Alani, Taluka &amp; District-Osmanabad (P@35/43/50)</li> </ol> *Respondents No. 2 to 5-PP have not complied with EC 7 Consents Conditions, caused environmental damage due to discharge of High PM <sub>10</sub> and PM <sub>2.5</sub> . *Besides, not developing green belt, Cutting more trees than required, not providing rain water harvesting in an area having less rain fall and causing air and noise pollution
¶11; P@14-16	¶11:Substantial Damage to the Environment (a) <u>Not operated</u> its Crusher Plant & RMC in <u>scientific manner</u> . <u>No installation of pollution control equipments</u> at the project site and also R- 5 has <u>not taken due care</u> for carrying its products during delivery to roads under construction (b) R-5 has processed & produced <b>millions of crore crushed sand and RMC</b> for construction of roads. But there is no installation for dust control. (c) Particulate Matters (PM <sub>10</sub> ) is observed to the tune of 681 µg/M <sup>3</sup> against the NAAQ standards of less than 100 and

	<p>also Particulate Matters (PM<sub>2.5</sub>) is observed to the tune of 126 µg/M<sup>3</sup> against the NAAQ standards of less than 60</p> <p>(d) Proposed Directions Clearly Shows:          -(i) No metallic Road, (ii) No wind breaking wall, (iii) No adequate height of stack, (iv) Not covered material transport point, (v) Not operated ETP, (vi) Not provided water sprinkling System, (vii) No sufficient tree plantation at periphery, (viii) Earlier Consents expired, (ix) Industry not serious about pollution control, ETP Not operated, no APCS,</p> <p>(e) Non-compliances shows damage to Soil/land, water, air, agricultural crop, no tree plantation leading gas emission, dust laying leading to water body pollution runoff during raining water</p> <p>(f) emission of PM<sub>10</sub> &amp; PM<sub>2.5</sub> at the highest side cannot be neglected</p> <p>(g) industry is operating their plant without consent to operate since 01.01.2019</p> <p>(h) industry is mighty and resourceful having huge profit margin at the cost of Mother Nature by using natural resources</p> <p>(i) cost of cumulative production of various <b>products at the plant is more than 1500 Crores</b> and as per the principle laid down in the Sterlite Industry, exemplary and deterrent environmental compensation must be imposed by taking into consideration the willful conduct of Industry</p> <p>(j) industry may kindly be charged with the <b>Rs. 250 Crores of compensation</b> on account of substantial damage to environmental &amp; ecology</p>
¶12-15; P@16-19	<p>¶12: Locus of Applicant</p> <p>¶13: Jurisdiction of Hon'ble NGT</p> <p>¶14: Cause of Action</p> <p>¶15: Limitation</p>
¶16-17; P@19-20	<p>¶16: Substantial Question of Law</p> <p>¶17: <b>Prayers</b></p> <p>(a) OA may kindly be allowed &amp; grant necessary relief</p> <p>(b) Closure of Units &amp; obtain renewal;</p> <p>(c) Direct to comply PD &amp; not to operate units</p> <p>(d) R-2 to 5- be directed to take restitution and restoration measures to remove pollution caused in the nearby agriculture areas</p>

	<p>(e) R-2 to 4-NHAI through its contractor IRB Infrastructure may kindly be restrain from collecting any toll till they comply with all the environmental conditions imposed in the consent and EC granted to them</p> <p>(f) other relief in the interest of Justice</p>
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**4. NH-211 VIOLATIONS:** That, the Respondent NO. 2 to 4-NHAI obtained Environmental Clearance vide dated **23.06.2024** for “Rehabilitation & Upgradation of NH-211 from existing 2 lane to 4 lane from Yedshi to Aurangabad Section”. However, R-2to 4-NHAI-PP have not complied with the terms & condition of the said EC and violated with impunity. That the violations are stated below;

- a) Illegal felling of large number of tree and no compensatory plantation of local species or felled species; No three time plantation, No green belt development, No noise barriers,
- b) No RWH System & No RHW Structure at 500 Mtrs, No Walk way on bridges, No Display board for Air Pollution Index, No Sprinkling during construction phase, No drain at 1 Mtrs on embankment, No environment Cell, No compliance to Public Hearing minutes.

**4.1 ILLEGAL FELLING OF TREE AND COMPENSATORY PLANTATION:** That the EC dated 23.06.2014 vide condition No. (ii) at P@ 30 shows 27380 numbers of tree felling, NHAI in its Reply Affidavit dated 23.01.2022 at P@146 shows 20694 number of trees felling and PCCF vide its letter dated 06.09.2023 shows 12648 number of tree felling. Such great discrepancy shows inherent lack of coordination between the Government Authorities and blatant falsehood before the court of law in judicial proceedings. That the NHAI have disclosed that the permission of tree felling was taken only

for 8049 trees against felling of more than 27380 trees as stated in EC Conditions. This Hon'ble NGT may kindly take judicial note of this misleading fact;

Sr.	Description	EC	NHAI	PCCF
1.	No. of Tree Felt	27380 ¶5(ii), P@30; tree fall	20694	12648
2.	Permitted Tree Felling	Take Prior Permission	8049	Mute
3.	Compensatory Plantation	¶5(xvii), P@30; Compensatory Plantation, three time, same species/local species	272532	Not Disclosed
4.	Forest Felling & Plantation	Felling: 314		5122
	Green Belt	¶5(ix), P@30; Green Belt	P@146	P@ Letters
	NHAI as well as PCCF have not disclosed actual Plantation of trees, there types, number of trees of each types, class-local/same species.			
	Is a <b>bougainvillea</b> a shrub or tree or climber? It is an evergreen, <b>climbing shrub</b> with thick, thorny stems and drooping branches that are glabrous or sparsely hairy.			
	Plantation of Same species/local species: No			

- 4.1.1 That the R-2 to 4-NHAI is showing the plantation of "**bougainvillea**" at Page No. 156, 159, 160, 162, at median of High Way and substantiating this plantation of **bougainvillea** as tree and this stand of NHAI is totally false and misleading.
- 4.1.2 That the NHAI is not providing detail tree plantation for local species, felled species to comply the condition of EC.
- 4.1.3 That the tree plantation shown by NHAI in photographs from **Page No. 153 to 171** are not the local trees and these are foreign jungle trees having no ecological balance with the ecology of area or our country.
- 4.1.4 That the Permission obtained by the NHAI is only for 8049 as stated in its affidavit at Page No. 146 on its own affidavit against which actual tree felled by the NHAI are more than 27380 trees and there is no plantation of local species.

- 4.1.5 **Penalty:** Therefore, there NHAH shall be imposed with penalty of Rs. 250000/- (Two Lakh Fifty Thousands) per tree felled illegally.
- 4.1.6 **EDC Illegal Felling of trees to the tune** of Rs. 75000/- per tree X Average Age of Tree X No of trees illegally felled
- 4.1.7 Further, **EDC for Not carrying Compensatory Plantation NHAH also be imposed with EDC to the tune** of Rs. 75000/- X No. of Year X No. of Trees not planted as compensatory trees” to be planted for not planting compensatory tree from local species.

**4.2 COMPENSATORY PLANTATION AT SURVEY NO. 52 OF VILLAGE-RUI, RANGE-BHOM DISTRICT-OSMANABAD AND SURVEY NO. 179 OF VILLAGE-KOLWADI RANGE & DISTRICT-BEED, NEEDS TO BE VERIFIED:** That the PCCF vide its letter dated 06.09.2023 have claimed that there is compensatory plantation of 5122 trees on Gat No./Survey No. 52 of Village-Rui of Bhoom Range and Gat No./Survey No. 179 of Village-Kolwadi of Beed Range. However, there is no such plantation on these location, as the Land from Gat No./Survey No. 52 of Village-Rui is belongs to the “Reserved Forest of Maharashtra Government” and there is no mutation entry of Tree Plantation. Moreover, the Land from Gat No./Survey No. 179 of Village-Kolwadi of Beed Range is belongs to “Government Gauchar Land” and also, there is no mutation entry of Tree Plantation. Therefore, stand taken by the PCCF is seems to be not correct and this Hon’ble NGT may kindly direct the PCCF to produce the evidence to this effect of plantation of 5122 trees on these location.

**4.3 RWH SYSTEM & NO RHW STRUCTURE AT 500 MTRS, NO WALK WAY ON BRIDGES, NO DISPLAY BOARD FOR AIR POLLUTION INDEX, NO SPRINKLING DURING CONSTRUCTION PHASE, NO DRAIN AT 1 MTRS ON EMBANKMENT, NO ENVIRONMENT CELL, NO COMPLIANCE TO PUBLIC HEARING MINUTES:**

That the Respondent No. 2 to 4-NHAI have filed its reply affidavit vide dated 23.01.2022, which is having paging from **142 to 215** in case compilation and R-2 to 4-NHAI have made any comment on these issues of RWH System & No RHW Structure at 500 Mtrs, No Walk way on bridges, No Display board for Air Pollution Index, No Sprinkling during construction phase, No drain at 1 Mtrs on embankment, No environment Cell, No compliance to Public Hearing minutes” except tree felling & compensatory plantation. Therefore, these is clear cut violations of PP other terms & conditions of EC by NHAI. That the MPCB & SEIAA-Joint Committee Report dated 11.10.2019 (**P@47-49**) have also clearly stated that there is no compliance of the conditions of EC or partly complied. Therefore, R-2 to 4-NHAI shall be held liable for these non-compliances and appropriate damage may kindly be imposed on NHAI along with direction to comply these conditions for installation/ arrangements of Environment Infrastructures on National Highway within next Three Month.

**5. R-5-PP: STONE CRUSHERS/RMC/HOT MIX/WET MIX PLANTS VIOLATIONS:** That the R-5-Modern Road Makers Pvt. Ltd. have established & operated its Stone Crushing units, Wet Mix Units & Hot Mix Units on Five locations for construction of NH-211 and obtained CTE for come units and also, obtained CTO for these unit, but failed to obtain

the revalidation of CTO after the its expiry as well as these is no compliance to the terms and conditions of the CTE & CTO. That the MPCB have brought on record vary serious violations on account of non-installation of Environment/ Pollution Control devices by this Respondent. There was Proposed directions vide dated 06.02.2019 (P@43-44) to these units by MPCB, but no compliance of same has been done. Also, Joint Committee of SEIAA & MPCB have visited these plants vide dated 11.10.2019 (P@50-75) and noted serious infringements. Thereafter, MPCB have issued Interim Directions vide dated 05.11.2019 (P@77-85). Thereafter, SRO-MPCB visited these plants on 10.01.2020 (P@99-100, 103-105, 108, 111-112) and submitted its Report vide dated 15.01.2020 , (P@97-98, 101-102, 106-107, 109-110) for compliance of PD/ID of MPCB and on MPCB vide its letter dated 18.02.2020 (P@117-126) informed EDC imposed on R-5.

**5.1 CTE & CTO GRANTED TO RMC/ HOT MIX PLNATS, GAPS IN CTE/CTO AND EDC OUGHT TO BE IMPOSED ON RMC/HOT MIX/WET MIX/STONE CRUSHING PLANTS OF R-5-PP:** That the Details of CTE & CTO granted to the R-5 various units are as below;

Sr.	Plant Location	CTE	CTO		Appl <sup>n</sup> . Renewal	No. of GAP days in CTE/ CTO
			From	To		
1.	Khed,	14.11.2014 P@370	29.01.2015 P@374	31.12.2015	19.08.2019	(365*3)+31+28+31+30+31+30+31+18= <b>1325 Days</b>
2.	Murum,	27.11.2015 P@395	14.10.2016 P@399	30.06.2019	05.07.2019	04 days
3.	Sasewadi	No CTE Obtained	27.11.2015 P@430	31.12.2017	14.01.2020	CTO:(365*2)+13 =743 Days CTE:33+(365*4)+13=1506 Days
4.	Talewadi	07.10.2015 P@450	24.04.2016 P@454	31.10.2020		
5.	Wasi	No CTE Obtained	20.03.2017 P@470	30.09.2024	19.08.2019	CTE: 11+270+210+18=719 Days

Total Gap Days for not having CTE/CTO for above plants are **1325+743+1506+719=4293 days**. Therefore, apart from EDC computed by MPCB to the tune of **Rs. 2506250/-** for the non-compliance on part of non-operation/non-installation of Pollution Control Infrastructure by R-5, that MPCB failed to calculate the actual EDC as per Paryavaran Suraksha case formula and this Applicant as below;

PI	N=No of Days	Rs.	S	LF	<b>Total EDC Rs.</b>
50	4293	250	0.5	1	<b>26831250</b>

Therefore, this Hon'ble NGT may kindly impose EDC to the tune of Rs. **26831250/-** in addition to **Rs. 2506250/-** on Respondent No. 5-M/s. Modern Road Makers Pvt. Ltd.

**5.2 PROPOSED DIRECTIONS, INTERIM DIRECTIONS, & EDC LETTERS ISSUED TO R-5-PP BY MPCB:** That on compliant of ApplicantNo.1, MPCB have issued various proposed directions, interim Directions and EDC recovery letters to the R-5. However, PP have intentionally not paid the same. This Non-compliance of R-5-PP shows very callous attitude towards the judicial & quasi-judicial proceedings and may be this Respondent thinks himself above the law.

Sr.	Plant Location	PD 06.02.2019	ID 05.11.2019	EDC 18.02.2020
1.	Khed,	P@43-44	P@77	P@393-394
2.	Murum,	NA	P@84-85	P@428-429
3.	Sasewadi	NA	P@80-81	P@448-449
4.	Talewadi	NA	P@82-83	P@468-469
5.	Wasi	NA	P@78-79	P@

**5.3 SERIOUS NON-COMPLIANCES BY R-5-PP: STONE CRUSHING UNIT/RMC UNIT/HOT MIX/WET MIX**

**PLANT:** That the Proposed directions, Interim Directions, Site inspection Report and EDC Letter issued by the MPCB clearly shows that there are serious non-compliances by the R-5-PP in its plant of Stone Crushing, RMC, Hot Mix, Wet Mix etc. That the R-5-PP failed to operate ETP, failed to provide metallic Road, failed to provide green belt at periphery, failed to provide cover at material handling point, failed to provide sprinklers, failed to provide adequate heights for stacks, failed to provide dust collector, failed to provide APC system, scrubbing system, not provided bag house for cement & fly ash mixing, not disposing solid waste/muck, wind breaking wall, not provided cover for conveyers belt, no air quality monitoring etc. Therefore, there is blatant violations causing serious irreparable Environmental & Ecological degradation attracting heavy Environmental Damage Compensation.

**5.4 APPEALS OF PP BEFORE PS-DOE AGAINST MPCB NOTICE FOR RECOVERY OF EDC ARE WITHOUT JURISDICTION AND NULL, VOID & ILLEGAL:**

That the Appeal preferred by the R-5-PP before the Appellate Authority i.e. C/o. The Principal Secretary of DoE have no jurisdiction as the Letters issued by the MPCB for the recovery of the EDC vide dated 18.02.2020 to PP are not under Section 27 of Water (P&CP) Act, 1974 for rejecting of Consent & Section 21 of the Air (P&CP) Act, 1981 i.e. for rejecting of Consent. That the Appeal does not mention the Jurisdiction of the Appellate Authority as well as does not discloses the provisions of law under which these appeals are preferred. Also these Appeals are not preferred within

30 days of time limit as mentioned in the statute as the EDC letters are of date 18.02.2020 and Appeals are preferred on 06.05.2022. Therefore, the Appeals preferred by PP are illegal, null, void & meaningless and these farce of Appeal was made to prolong the payment of EDC. Moreover, SEIAA/MPCB is not disclosing the decision taken by the Appellant Authority on these Appeals.

Sr.	Plant Location	EDC 18.02.2020	Appeals 06.05.2022
1.	Khed,	P@393-394	P@338
2.	Murum,	P@428-429	P@342
3.	Sasewadi	P@448-449	P@341
4.	Talewadi	P@468-469	P@339
5.	Wasi	P@	P@340

- 6. OBJECTIONS TO JOINT COMMITTEE INSPECTION REPORT (P@47-75):** That the Joint Committee have filed its site visit Report vide dated 11.10.2019 by visiting the NH-211 Construction and compliance of EC dated 23.06.2014 as well as visited the various units of R-5-PP established for Stone Crushing, RMC, Hot Mix, Wet Mix etc. That the Joint Committee Report clearly shows the serious non-compliance of the R-2 to 5. However, Joint Committee failed to make any comment on the EDC.
- 7. STAND OF R-1: MPCB:** That the MPCB have filed its Action Report vide dated 11.11.2019 (P@76-86), first Reply Affidavit vide dated 24.02.2020 (P@92-126) stating inadequate & improper EDC amount, the filed Additional Reply Affidavit dated 30.09.2020 (P@127-131) stating present compliances & Non-compliances report of NH-211 & R-5-Plants. That the Additional Affidavit clearly mention

number of non-compliance and its violation of EC conditions as well as this affidavit further shows serious non-compliance on part of R-5-PP.

8. **STAND OF R-2-4: NHAI:** that the R-2 to 4 have filed its reply affidavit vide dated 23.01.2022 (P@142-215), wherein NHAI has misled on account of total tree felling, total plantation and there is no mention of compliance of other conditions of EC. That this respondent have suppressed actual tree plantation. Also, this respondent does not disclosed the plantation of native plants, local species etc. That the tree plantation on forest land is misleading.
  
9. **STAND OF R-5: MODERN-PP:** That this Respondent is the main contractor of NHAI provide construction material for Highway Construction i.e. Stone, Metals, Ready Mix, Hot Mis, Wet Mix, etc. That this Respondent have filed two reply vide dated 07.04.2023 (**P@216-342**) & 26.06.2023 (**P@343-629**). That this Respondent have tried his best to create nuisance by misleading on account of Appeals preferred to the Appellate Authority against the MPCB letters for recovery of EDC. Also, this Respondent have claimed number of CTE & CTO for their plants but same are not disclosed or attached herewith the Reply. That the compliance letter filed by the PP before MPCB are vague & misleading. That there are large number of days gap in obtaining CTO for various units. That this respondent have not operated the ETP, not provided APC system. This Respondent confidence is very high towards the non-compliance of environmental norms and might be or seems to be due to his access to the power corridor of deep unholy nexus.

- 10. STAND OF R-6: SEIAA:** That the SEIAA have not filed any reply affidavit to this OA. Even though the EC dated 23.06.2014 have been granted by MOEFCC, SEIAA is duty bound the take action as per delegation of power to SEIAA vide MoEFCC Notification dated 28.02.2014. However, SEIAA official's confidence is very high due to no strict actions from the Hon'ble NGT. Therefore, Hon'ble NGT shall take serious action against the officials of the SEIAA for their conduct of mute spectatorship.
- 11. STAND OF R-7: PCCF:** That this Respondent despite multiple directions of this Hon'ble NGT and despite undertaking in last Order dated 22.04.2024 for filing of Affidavit within Two days and its service to other parties have failed to file such affidavit as well as to serve it upon other Parties. That this Respondent vide its letter dated 06.09.2023 have misled on account of tree plantation on forest land at Village-Rui of Bhoom Forest Sub-Range and Village-Kolewadi of Beed Range. That there is no such compensatory plantation of 5122 trees as there is no mutation in village record. That the PCCF ought to promote the plantation of local species and not the foreign trees. Therefore, this Hon'ble NGT may kindly take judicial note of this unapologetic conduct of R-7-PCCF.
- 12. ENVIRONMENT DAMAGE COMPENSATION-EDC:** That the following EDC may kindly be imposed on R-2 to 4 & R-5 for their environmental non-compliances;

Sr.	Respondent	Non-Compliances	EDC-Rs.
1.	R-2 to 4-NHAI	Tree felling, No Plantation of local Species, RWH, Air	Rs. 250 Crores

		Monitoring, Noise Barriers, etc .	
2.	R-5-MRMPL	PD & ID of MPCB	Rs. 29337500/-

**13. REQUEST/SUGGESTIONS ON BEHALF OF ORIGINAL APPLICANT SEEKING RELIEFS/DIRECTIONS/ORDERS:**

**13.1** This Hon'ble NGT may direct to NHAI to carryout plantation of local species suitable of area ecology of more than 500000 (Five Lack) trees within next six moth along with responsibility of survival.

**13.2** This Hon'ble NGT may kindly impose and recover the EDC of Rs. 250 Crores from NHAI for illegal tree felling, non-plantation of local trees, not providing other necessary environmental infrastructure on NH-211 and same may kindly used for restoration and restitution of the area including installation of necessary environmental infrastructure on NH-211.

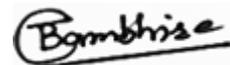
**13.3** This Hon'ble NGT may kindly impose and recover the EDC of Rs. 29337500 Crores from R-5-PP for illegal operations, non-installation of pollution control system and same may kindly used for restoration and restitution of the area.

**13.4** This Hon'ble NGT may kindly take serious judicial note of conduct of PCCF.

**13.5** Any other appropriate direction.

**14.** Hence this Written Submission.

Date: 07.08.2024



TANAJI B. GAMBHIRE  
ADVOCATE FOR THE APPLICANTS