

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE
APPLICATION NO. 07 /2018 (WZ)

IN THE MATTER OF:

MR. PRAKASH VIRSINGH ADHE & ANR ...APPLICANTS

VERSUS

M/s. KASHMIRA STONE CRUSHER &

ORS. ...RESPONDENTS

FILE-A

[VOLUME-II]

WRITTEN SUBMISSIONS BY AND ON BEHALF OF
APPLICANT NO. 2-MR. KISHAN ADHE

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APPLICANT NO. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
(Through Video Conferencing)
Original Application No. 07/2018 (WZ)**

IN THE MATTER OF:

MR. PRAKASH VIRSINGH ADHE & ORS. APPLICANT(S)

VERSUS

M/S KASHMIRA STONE CRUSHER & ORS....RESPONDENT(S)

WRITTEN SUBMISSIONS BY AND ON BEHALF OF

APPLICANT NO. 2-MR. KISHAN ADHE

1. I am original applicant no. 2 in this original application and I am residing at Village: Malegaon, Near Manmodi village, Post: Malegaon, Taluka: Jintur, District: Parbhani-431509 and I am farmer by occupation and this is the only means of survival of me and my family. I am residing at the above stated rural area which is very remote drought area and having lack of basic infrastructure.
2. I state that, the present OA was filed by Applicant No. 1-Mr. Prakash Adhe and me on 22.12.2018 as both of us were directly affected by the illegal Operations and pollution of Respondent No. 1 to 3 and affidavit in support of OA was sworn and filed by both of us. That the applicant No. 1-Mr. Prakash Virsingh Adhe had specifically mention in Para-4 at page-4 of O.A. that,
“ That in one case Complainant father Shri. Virsingh Dhavaji Adhe, he suffering from Asthma since last four years and 70% of local peoples also suffering from Asthma and lung related diseases. In the year 2016 he has been operated at Aurangabad

Hospital and total expenses of Rs. 3,00,000/- (Rs. Three lakhs only) have been incurred by the complainant No.1 on the medical treatment & operation of his father”.

In support of this claim various documents pertaining to the illness treatment of Father late Shri. Virsingh Dhavaji Adhe of Original Applicant No. 1- Mr. Prakash Adhe has been attached in **Exhibit-D from Page No. 121 to 139**. These documents were submitted and filed by Original Applicant No. 1, because they are in his exclusive possession and nothing to do with Original Applicant No. 2. Also, in **Para No. 7 at Page No. 5** of OA has specifically mention that, there is agricultural land of applicant No. 1 within 50 Mtrs. from mine and stone crusher. Furthermore, in **Para No. 9 Page-6 of OA** it has specifically mentioned by applicant No. 1 that the dust particles from the stone crushers, are spread over and have affected various crops from adjoin agricultural land of Applicant No. 1. It specifically mention that, the various complaints filed by Original Applicant No. 1 and his father are annexed with Original Application at **Exhibit-E at Page No. 140, 142**, also Original Applicant No. 1- Mr. Prakash Adhe himself has admitted in **Para-32 at Page No. 9 of OA** that he has filed complaints with various Government Authorities on 25.02.2017. Furthermore, Original Applicant No. 1-Mr. Prakash Adhe has specifically admitted in **Para-48 at Page-13 of OA** that he has filed complaint to Regional Office of MoEF Nagpur on 25.02.2017 and also in additional to this Original Applicant No. 1-Mr. Prakash Adhe has specifically admitted that, he has filed complaints before Hon'ble Prime

Minister of India, Chief Minister of Maharashtra and various Other Hon'ble Ministers and various authorities on 25.02.2017.

3. PRINCIPAL CONTENTIONS OF ORIGINAL APPLICANT NO. 2 IN OA NO. 07 OF 2018 (WZ):

A. I state that, the principal contention of Original Applicant No. 2 is that, "Respondent No. 1 to 3 have operated their Stone Crushers, Asphalt Mixer Plants in illegal manner and carried out illegal Stone Quarrying (Black Trap Mining) without requisite permissions from appropriate authority causing damage to the Environment, Ecology, Public Health, Area and farming of Original Applicant No.2 & caused to life his family members".

- i) Respondent No. 1-M/s. Kasmira Stone Crusher is the carrying out his business of illegal stone crushing as well as illegal stone quarrying on the survey No. 42 (P) & 43 (P) of the Village-Manmudi, Taluka-Jintur, District-Parbhani since 14.07.2007 as per the records of MSEDCL providing electricity supply to this industry.
- ii) Respondent No. 3-M/s. Krushna Stone Crusher is the carrying out his business of illegal stone crushing as well as illegal stone quarrying on the survey No. 71 (P) of the Village-Malegaon, Taluka-Jintur, District-Parbhani since 29.02.1996 as per the records of MSEDCL providing electricity supply to this industry.
- iii) Respondent No. 2-Mrs. Sheela Ramrao Pawar is the proprietor of Respondent No. 1 & 3 and beneficiary of this illegal stone quarrying & crushing along with asphalt

mixer plant. As this Respondent No. 2 is profit making proprietor of Respondent No. 1 & 3, therefore she is also responsible to compensate the environment, ecology, public health, public property and also to pay the damages to the Applicant No. 2.

- iv) Respondent No. 1 & 2 are carrying out the quarrying of stones from Gat No. 42 & 43 on an area admeasuring more than 2.00 Hectors.
- v) Respondent No. 2 & 3 are also carrying out the quarrying of stones from Gat No. 71 (P) on an area admeasuring more than 3.20 Hectors.
- vi) Respondent No. 1 & 2 has operated their crusher & carried out the mining activity without prior consent 2007 to 2017. And thereafter procured the ex-post facto Consent dated 12.05.2017 and there is no compliance to the terms and conditions of this consent. Therefore the Respondent No. 1 & 2 have done illegal activity for more than 10 years causing substantial damage to the environment and ecology.
- vii) Respondent No. 1 & 2 has operated their crusher & carried out the mining activity without prior Environment Clarence since 2007. And thereafter procured the ex-post facto EC dated 01.01.2015 and there is no compliance to the terms and conditions of this EC. Therefore the Respondent No. 1 & 2 have done illegal activity for more than 8 years causing substantial damage to the environment and ecology.

- viii) Respondent No. 1 & 2 have not complied with the terms and conditions imposed by SEIAA while granting the environmental clearance dated 01.01.2015 for the stone quarrying at Survey No. 42 & 43 (P).
- ix) Respondent No. 2 & 3 have not obtained any prior consent as well as EC and therefore all the activities of these Respondents are illegal causing damage to the environment and ecology from 1996 to 2018.
- x) Stone Quarries and Crusher units are within 300 Mtrs from the human habitation and due to fugitive dust emission & poisonous gases from blasting from these units adversely affecting the workers and local inhabitants.
- xi) Huge noise level from the units have adversely affected the life cycle and units have not followed the CPCB norms.
- xii) Respondent No. 1 units and mine is at 800 Mtrs from the highway and Respondent No. 3 unit & mine is at 200 Mtrs from the same highway. And Respondent No. 3 have totally damaged the road passing though the mine.
- xiii) Original Applicant No. 2 has agricultural land which is sharing common environment with the polluter units and is situated in the same survey number of 42 & 43 of Respondent No. 1 and
- xiv) Respondent No. 1 to 3 have provided false and misleading information on account of total excavation of stone from mines, total crushing and total quantity of asphalt mixer.
- xv) Crops from adjoining agricultural land and fertility of the soil is adversely affected due to spread of dust in the vicinity

- xvi) Blasting have caused filed, houses due to vibrations and release of hazardous gases.
- xvii) Respondent No. 2 & her husband Mr. Ramrao Kisanrao Pawar have tortured, harassed, threatened to the Original Applicant No. 2 and compelled to sale the land to him without giving heads to the environmental issues. Therefore these Respondents No. 1 to 3 are careless and reckless.
- xviii) Inspite complaint of this Original Applicant, there is no action from Collector of Parbhani, Tehsildar of Jintur for environmental as well as revenue loss and this shows deep unholy nexus of government officials with Respondent No. 1 to 3.
- xix) Respondent No. 1 to 2 have violated condition No. 6 of EC dated 01.01.2015 which is very important with respect to width and depth of mine,

“The Configuration of the benches should be: 60 degrees slope in the cut, 6mt depth for cut and 6 mt width for the bench. In facts, the depth of the mine is more than 21 mtrs and width of mine is more than 25 Mtrs.”
- xx) Respondent No. 1 to 3 have violated the provisions of Maharashtra Minor Minerals Extraction (Development and Regulation) Rules 2013 and duped the government dues of many crores.
- xxi) Quarrying activity have adversely impacted ground water sources and there is no safety measures by Respondent No. 1 to 3 and their driver Mr. Mahalee Sanap is expired due to slipping of tractor into the mine in January-2015. The said

incident of death is suppressed by these Respondents from the Police, Collector etc.

- xxii) Respondents have violated the directions & orders passed by Hon'ble Supreme Court of India and Hon'ble NGT for stone quarrying and its crushing units.
- xxiii) Transportation of raw stone and metals is done without covering of vehicles and overloaded transportation is done.
- xxiv) NOC granted by Collector of Parbhani was valid only for 30.06.2012 to 30.06.2013, however Respondent No. 1 to 3 have carried out their illegal operations of Mines & crushing from 2007.
- xxv) Mines & crushing activities are carried out day and night and waste is dumped on Government land reserved for cattle grazing (Gairan).
- xxvi) Without obtaining necessary prior permissions, agricultural land is used for stone quarrying.
- xxvii) It is mandatory to obtain prior EC on part of Respondent No. 1 to 3 as per the Order & direction dated 27.02.2012 by the Hon'ble Supreme Court **in IA No. 12-13 of 2011 in SLP No. 19628-19629 of 2009**". Even though there is old lease.
- xxviii) Hot mix plant is illegally operated since 2009 and operated without installation of necessary air pollution control system and prior consent.
- xxix) MPCB & mining officers failed to take action under section-20 of NGT Act, 2010 for "precautionary principle" to stop pollution.

- xxx) That the Revenue Secretary of Maharashtra, Environment Secretary, RO-MPCB, Secretary MoEF, RO-MoEF, Tehsildar Jintur failed to take action on complaint of this Original Applicant and this shows negligence in the government system.
- xxxii) Respondent Units procured the ex-post facto consent on 12.05.2017 from RO-MPCB, but did not comply with the same and made excess illegal crushing and excavation of stone from quarry, no green belt development, no sprinklers, no control blast, no dust emission control, no sanitation system, no safety measures. Therefore, it amounts to violations.
- xxxiii) Respondent units themselves admitted vide their letter dated 26.07.2017 that they have excavated 37758.15 brass of stone from Gat No. 42 & 43 and 4442.44 brass of stone from Gat No. 71 and these quantities have measured with ETS Machine. This is substantial damage to the environment, ecology, public health & area.
- xxxiiii) Tehsildar Jintur has prepared false, baseless report dated 07.09.2017 and human habitation is within 300 Mtrs from the mines and crushing units and Original Applicant is sharing boundary with Respondent No. 1 as they have same revenue survey number.
- xxxv) In spite of clear cut closure dated 27.06.2017 by Grampanchayat of Manmodi, Respondent No. 1 to 3 did continue to operate the same in illegal manner and prepared bogus & false resolution.

xxxv) Therefore, including Respondent No. 1 to 3, District Collector, District Mining Officer, RO-MPCB Aurangabad, SRO-Parbhani, must be held liable for violations of terms and conditions of Consent dated 12.05.2017 issued under Water (P&CP) Act, 1974, Air (P&CP) Act, 1981, Hazardous Waste (Management, Handling & Transboundary Movement) Rules-2008 and violations of terms and conditions of EC dated 01.01.2015.

- B. I state that, the Respondent No. 1 to 3 are responsible for the above violations causing damage environment & ecology.
4. I state that, all the respondents were unable to counter any of the above mentioned allegations as mentioned in Original Application.
5. **MPCB & RESPONDENT NOS. 1 TO 3 ARE GUILTY OF *SUPPRESSIO VERI AND SUGGESTIO FALSI*:**
- a. MPCB & Respondent No. 1 To 3 have suppressed many important facts, events, permissions, documents causing irreparable environmental damage and degradation;
 - b. Proceedings initiated by Tehsildar for imposition of penalty of Rs. 3 crore for evasion of revenue loss on account of illegal stone extraction and its crushing.
 - c. Criminal proceedings initiated for Cheque bounce against royalty.
 - d. Proceedings initiated by Collector for Brach of Seal of plant.
 - e. Physical Damage caused my family members due to explosion in the stone quarry and its Medical claim for them

- f. Damage caused to my Agricultural and cultivation due to the air pollution caused by these crushers and Reports & Panchamana of Tehsildar, Talathi, and Agricultural officers
6. **FALSE & MISLEADING STATEMENT ON THE FACE OF HON'BLE TRIBUNAL:**
- a. I state that, the environmental Compensation is calculated by MPCB only for 150 days for violations of M/s. Kashmira Stone Crusher to the tune of Rs. 9,37,500/- (Rupees Nine Lakhs Thirty Seven Thousands and five Hundreds Only), whereas crusher and mining is going on since 15 years. Therefore, there is no calculation of amounts required for restitution and restoration of the area under environmental degradation and this amount of Rs. 9,37,500/- is totally false and misleading and it is compromised statement of MPCB and Respondent No. 1 at the cost of Mother Nature.
- b. I state that, the Respondent No. 3-M/s. Krushan Stone Crusher is doing illegal mining in the area since more than 25 years without environment clearance, without consent to establish and without consent to operate and there is no compliance to environmental norms. There is no environmental damage calculated by MPCB intentionally and **also restitution and restoration cost required for the area under environmental degradation by Respondent No. 3 is not calculated.** Therefore, the Reports, affidavits of the MPCB are false, bias, misleading and having absence of reality.

7. COMPLIANCE OF NGT ORDER DATED 10.07.2018 BY RESPONDENT NO. 5-TEHSILDAR JINTUR & RESPONDENT NO. 8-RO, MPCB

- A. I state that, this Hon'ble Tribunal issued directions dated 10.07.2018 to Respondent No. 5-Tesildar and Respondent No. 8-RO-MPCB to visit the site in question and if allegations in OA are found to be correct then further directed to take necessary actions.
- B. I state that, the Respondent Authorities were visited the site on 30.08.2018 with respect to compliance of Order dated 10.07.2018 and MPCB filed their affidavit dated 10.10.2018 in compliance of this Order dated 10.07.2018.
- C. I state that, the Respondent No. 8-RO-MPCB has filed affidavit dated 10.10.2018 and clearly admitted that there are non-compliances by units and farm of the Original Applicant is at 10 to 15 Mtrs. from stone quarry.
- D. I state that, the Para-6 (A) of the MPCB affidavit has clearly disclosed major violations and impact on the environment and farm of the Original Applicant No. 2 due to illegal activity of the Respondent No. 1.
- E. I state that, the **Para-6 (B) of the MPCB affidavit** has made false statement to disclose the violations and impact on the environment due to illegal activity of the Respondent No. 3. Basically the unit operations of Respondent No. 3 was closed on the day of visit of committee, but MPCB & Other Committee has intentionally misleded this Hon'ble NGT. **Respondent No. 5 has imposed the fine Rs. 3,84,46,400/- i.e. almost four crores on**

Respondent No. 3. Therefore, the operation of his unit is closed since 2 years is totally false.

- F. I state that, the Tehsildar letter dated 11.06.2018 clearly states in point no. 8 to 11 that there is damage to the farm, crops, cattle's, agricultural land etc. Therefore, MPCB failed to consider the damages with respect to the damages caused to Original Applicant No. 2. On contrary to this finding of Tehsildar, further committee visited the site and prepared the report dated 30.07.2018 again misleded in point no. 6 that there is no damage to the farm, which is totally false. Whereas report dated 30.07.2018 have reported number of violations causing substantial damage to the environment, area, ecology, public hearth, public property etc.
- G. I state that, the MPCB has issued the proposed directions dated 30.07.2018 for number of non-compliance and serious violations.
- H. I state that, the Respondent No. 1 has submitted totally false, baseless and misleading reply dated 13.08.2018 to the Proposed direction dated 30.07.2018 of MPCB t cover-up their violations.
- I. I state that, the MPCB has made site visit to Respondent No. 1 crusher & hot mix plant & Respondent No. 2 stone quarry and prepare visit report dated 23.08.2018 which shows number serious violation causing damage to the environment. Also report clearly observed at item no. 1 under stone quarry at gat No. 42 & 43 that the land of Original Applicant No. 2-Mr. Kisan Adhe is adjacent to stone quarry. In fact the agricultural land of this Applicant is in the same gat number and have direct impact of stone quarry.

- J. I state that, the MPCB has made site visit to Respondent No. 3 crusher & stone quarry and prepare visit report dated 23.08.2018 which shows number serious violation causing damage to the environment. Likewise no consent, no sprinkling, no wind braking wall, no metaled road, no cover to conveyor belt, no wetting of ground, inadequate green belt and its impact on the roads at 50 mtrs, 500 mtrs, village at 1 Km and 400 mtrs distance of complainant farmer.
- K. I state that, the MPCB has issued the interim directions dated 08.10.2018 for number of non-compliance and serious violations and further directed to Respondent No. 1 for installation of various pollution control systems.
- L. I state that, the Consent to establish procured on 18.11.2006 by Respondent No.1 is not complied and there is no consent to operate from 2006 to 11.05.2017. Even thereafter there is no compliance to Consent to operate.
- M. I state that, the MPCB has issued the final directions dated 03.09.2018 to Respondent No. 3 for not to restart stone crushing activity to avoid the further damage to the surrounding environment.
- N. Therefore, this is the prefect case of violation of various environment protection enactments and Respondent No. 1 to 3 needs to be saddled with heavy environmental compensation and also Original Applicant No. 2 is entitle for environmental compensation on account of damage to his farm, cattle's, life of relatives & family members etc. which cannot be ignored as this applicant is sharing common environment with the polluters units.

- 8. FALLACIES IN REPORTS & REPLY FILED BY MPCB:**
- a. I state that, the MPCB filed an additional affidavit dated 27.02.2019 and shown their honesty with polluters to cover-up the violations of the respondent No. 1 to 3, again made false statement with regards to the distance of the applicants land at 100 Mtrs. away.
 - b. I state that, the compliance made by the Respondent No. 1 in his units was of temporary arrangement and there is no such standard pollution control devices are installed.
 - c. I state that, the Jintur Taluka health Officer has conducted the test on 27.09.2018 of the health only for the employee and other persons excluding the members of complainants & his family as per the request of the RO MPCB and this conduct is clearly bias.
 - d. I state that, the report dated 17.10.2018 submitted by the Agricultural officers are totally false, misleading and unscientific and cannot be relied upon as the MPCB mentions there is damage to the environment and Respondent is sharing the common environment with mine as well as with stone crusher, then this finding of agricultural officer becomes meaning less.
 - e. I state that the MPCB has filed third affidavit dated 25.07.2020 as per the Order dated 26.06.2020 of the Hon'ble Tribunal, where MPCB has imposed the environmental compensation of Rs. 937500/- on Respondent No. 1 and given clean cheat to the respondent No. 3. Basically Tehsildar of Jintur has imposed the fine of Rs. 3.84 Crores on this Respondent No. 2 for evasion of revenue and royalty for illegal excavation of stone and crushing.

Therefore, the finding of the MPCB is totally false and misleading. Moreover these units & mining of these Respondent is in operation prior to 2007. Therefore, the environmental compensation imposed on the Respondent No.1 to 3 is without any basis or scientific calculation.

- f. I state that, the MPCB has refused the consent to Respondent No. 3 vide its Order dated 20.12.2019 and issued final directions for closure vide its Order dated 10.07.2020.

9. FALLACIES IN REPLY OF RESPONDENT NO. 1:

- i) I state that, the reply filed by the Respondent No. 1 to the Original Application and MPCB affidavit dated 25.07.2020 imposing petty environmental compensation is totally false, baseless, misleading and needs to be ignore and denied by this Original Applicant No. 2 in toto.
- ii) I state that, the environmental compensation imposed by MPCB on only Respondent No. 1 is totally illegal and misleading against his illegal operation of crushing unit & mining since 2007 without consent to operate and EC. Moreover the revenue recovery & fine notice issued by the Tehsildar Jintur clearly indicates magnitude of loss to environment and ecology.
- iii) Respondent No. 1 to 2 has consumed huge electricity and illegal stone for crushing and there must be exemplary and deterrent compensation on such careless and reckless polluters.
- iv) Therefore, the contentions raised by the Respondent No. 1 in his affidavit dated 29.07.2020 from Para-1 to 7 are totally false, baseless, misleading and with high confidence received from MPCB officials to give clean cheat and of imposing negligible

environment compensation. It is necessary to impose highest compensation on all Respondents including government authority for their laying on the face of this Hon'ble Tribunal.

10. I state that, my previous lawyer has not given my brief and documents back to me and he has not attended the hearings and my co-applicant as well as my previous lawyer has not informed me about the ongoing proceeding through Video conferencing from principal bench reasons best known to them.
11. I state that, on 28th of July 2020 come to know from my well-wisher that the hearing of my case is undertaken though VC and matter is scheduled for hearing on next day. So, immediately I requested Adv. Nitin Lonkar to represent me and appear before the NGT.
12. I state that, due to COVID-19 pandemic the movements are restricted and basic infrastructure like transportation, courier & post, Xerox & Scanning etc. not available. So I could not send crucial documents to my advocate for adjudication of the case and therefore I instructed my lawyer to adjourn the matter on 04.08.2020 in view to enable me enough opportunity to place on record the following documents:
 - a. Proceedings initiated by Tehsildar for imposition of penalty of Rs. 3 crore for evasion of revenue loss on account of illegal stone extraction and its crushing.
 - b. Criminal proceedings initiated for Cheque bounce against royalty
 - c. Proceedings initiated by Collector for Brach of Seal of plant.

- d. Physical Damage caused my family members due to explosion in the stone quarry and its Medical claim for them
 - e. Damage caused to my Agricultural and cultivation due to the air pollution caused by these crushers and Reports & Panchamana of Tehsildar, Talathi, and Agricultural officers.
13. I state that, the MPCB reports copies and reply of other parties were not supplied to me and only three days time were granted to file objections / rejoinder from 29.07.2020 in this COVID-19 pandemic having no availability of infrastructure to supply the basic documents to my present advocate and next hearing of matter was scheduled immediately on 06.08.2020.
14. I state that, the documents from MPCB were received on 01.08.2020 through email of my present advocate and after going through the same, this applicant No. 2 got utter shock and surprise to this applicant no. 2 due to incorrect, false, suppression and misleading facts from MPCB. I approached the concern department for information, but none of the department is entertaining due to COVID-19 and therefore this Applicant No. 2 was not in position to file objection / rejoinder.
15. Moreover, I state that, there is no request for hearing though Video Conferencing on behalf of this Applicant No. 2 or I never instructed my previous lawyer and no such hearing is sought by this Applicant No. 2 as the matter is having technical aspects to show in physical hearing, which is not possible in virtual hearing.

16. I state that, the MPCB has filed false & misleading reports and there is no opportunity granted to this applicant no. 2 for rebuttal of the MPCB reports.
17. I state that, the environmental Compensation is calculated by MPCB only for 150 days for violations of M/s. Kasmira Stone Crusher to the tune of Rs. 9,37,500/- (Rupees Nine Lakhs Thirty Seven Thousands and five Hundreds Only), whereas crusher and mining is going on since 15 years. Therefore, there is no calculation of amounts required for restitution and restoration of the area under environmental degradation and this amount of Rs. 9,37,500/- is totally false and misleading and it is compromised statement of MPCB and Respondent No. 1 at the cost of Mother Nature.
18. I state that, the Respondent No. 3- M/s. Krushan Stone Crusher is doing illegal mining in the area since more than 25 years without environment clearance, without consent to establish and without consent to operate and there is no compliance to environmental norms. There is no environmental damage calculated by MPCB intentionally and also restitution and restoration cost required for the area under environmental degradation by Respondent No. 3 is not calculated. Therefore, the Reports, affidavits of the MPCB are false, bias, misleading and having absence of reality.
19. I state that, the pledging of the case are not completed. However the matter is reserved for the order is damaging legal rights of this Applicant No. 2.
20. I state that, I have appointed Advocate Nitin Lonkar on 29th July, 2020 and I was not able to provide the brief of the case as no

brief is received from previous lawyer due to pandemic. It is important to note that this Applicant No. 2 is staying in rural area even having difficulty in mobile network and my present lawyer is staying in New Delhi.

21. In this circumstances, case was reserved for judgment by Hon'ble NGT vide its Order dated 06.08.2020. After that I Original Applicant No. 2-Mr. Kisan Adhe filed his written submission on record on 07.08.2020, after which matter was listed for judgment and Order on 10.08.2020, the Hon'ble NGT instead of pronouncing the judgment proceeded to grant time to file rejoinder and additional documents on the condition of paying cost of Rs. 10,000/- by each applicant to the MPCB and Respondents represented by Shri Kulkarni. Surprisingly, the Hon'ble NGT recorded in the Order dated 10.08.2020 that

“The matter was listed for pronouncement of judgment, but an application through email was received which is moved by the applicant with the prayer to adjourn the proceedings today since he wants to file some document”.

The Applicant No. 2-Mr. Kisan Adhe has never sought adjournment on 10.08.2020, rather the matter which was listed as item No. 1 was passed over and at the end of the board instead of pronouncement of judgment & order, the lawyer of applicant No. 2 was directed to make his submissions. After the submissions was made on behalf of Applicant No. 2 and Respondent No. 1 to 3-Industies and Respondent No. 8 & 9-MPCB, the Hon'ble NGT proceeded to record in the order baseless allegations made by the lawyers of ResPondent No. 1 to 2 and 8 & 9, which was as under:

“Learned Counsel for the State Pollution Control Board and Shri Kullkarni for the respondent had submitted that the applicant is threatening and blackmailing the respondent and thus it should not be adjourned.”

These bald and baseless allegations were made without single pleading or iota of evidence on record.

22. That, as per the Order dated 10.08.2020 the applicant No. 2-Mr. Kisan Adhe has complied with the Order on 03.09.2020.
23. Also, I have filed the rejoinder dated 27.09.2020 with the supporting documents.
24. I state that, it is alleged by Original Applicant No. 1- Mr. Prakash Virsingh Adhe in **Para-1 of his affidavit dated 04.08.2020** that he has filed present OA on the basis of information gathered by Original Applicant No. 2-Mr. Kisan Adhe. Which is completely contrary to the record and various documents on record. Which clearly demonstrate that, the present Original Application is filed by the Original Applicant No. 1 based on his personal information and same can be seen from the allegations made from Hospital records of his father which is attached to the **Original Application at Exhibit-D, E & J**. Also, the Original Applicant No. 1 and his father has made several complaints to the various government authorities annexed **at Exhibit-E**. I state that, on the previous five hearings before this Hon'ble Tribunal have not appeared, but all of sudden after imposing of minuscule penalty for environmental damage on respondent No. 1 have filed this affidavit on 04.08.2020 to protect the polluter respondents.

25. I state that, the advocate for the Respondent No. 1 to 3 has made false and baseless oral allegations in course of hearing dated 10.08.2020 of threatening and blackmailing against only Original Applicant No. 2. These allegations are very conveniently made against the Original Applicant No. 2. As the respondent No. 1 to 3 managed to secure favourable affidavit from Original Applicant No. 1 in their favour. In fact, Respondent No. 1 to 3 and officers of Respondent No. 8 & 9-MPCB has pressurised and lured the Original Applicant No. 2-Mr. Kisan Adhe, but they utterly failed in their attempts. Therefore, they made baseless and bald allegations against Original Applicant No. 2-Mr. Kisan Adhe. If this Hon'ble Tribunal wish to verify and confirm the several attempts made by the Respondent No. 1 to 3 and Officers of Respondent No. 8 & 9. The Original Applicant No. 2 will produce what's app messages, recording of telephonic conversations and offers of the Respondent No. 1 to 3 to withdraw the judicial process initiated before this Hon'ble Tribunal. Therefore, this Hon'ble Tribunal may kindly initiate appropriate action against the Original Applicant No. 1-Mr. Prakash Adhe and perpetrators behind his actions. Furthermore, Original Applicant No. 2-Mr. Kisan Adhe should be appreciated for his defending the environment from his own expenses and staying consistent on his statement before this Hon'ble Tribunal.
26. I state that, though the Original Applicant No. 2 has complied with the Order dated 10.08.2020, Respondent No. 8-MPCB has filed completely false and frivolous affidavit dated 05.10.2020 to overcome their illegalities and connivance from their report and

previous affidavits. I state that, the affidavit filed by the Respondent No. 8-MPCB officer is completely contrary to the records and liable to be punished. Also, by the affidavit dated 05.10.2020, the MPCB wanted to conceal the most crucial aspect of the matter regarding computation of environmental compensation as the revenue authorities has calculated loss of royalty to the tune of 3.84 Crores for the stock lying on the day of visit. Therefore, if the compensation is computed fairly by applying scientific methods and principles laid down by Hon'ble Supreme Court in M. C. Mehta Case, Sterlite Industry Case, Common Cause case and Goel Ganga Case, it will run in several Crores.

27. SUBMISSIONS ON BEHALF OF APPLICANT NO. 2

- a. Respondent No. 1 is the Stone Crushing unit and Respondent No. 2 is the owner of Respondent No. 1 carrying illegal Stone Quarry activity for providing raw material of stones / black traps.
- b. Respondent No. 1-M/s. Kashmira Stone Crusher has obtained Consent to Establish (CTE) dated 18.11.2006 for establishment of the industry / plant, which was valid till commissioning and as per condition No. 8 of this CTE it was mandatory on part of this Respondent No.1 to obtain the consent to Operate for starting of commercial production. But this Respondent No. 1 is failed to obtain the CTO from MPCB.
- c. Respondent No. 1 himself has admitted in his letter dated 12.07.2017 that, the operation of the plant is undertaken from 1998 and has made excavation of 40574.86 Cu. Mtrs. of stone for

which he has paid royalty of Rs. 7874212/- (Seventy Eight Lakhs Seventy Four Thousands two hundred and twelve rupees).

- d. Respondent No. 1 has obtained the Consent to Operate on 12.05.2017 without non-compliance to the terms and condition thereto and also in violation of terms and conditions of CTE dated 18.11.2006.
- e. There was no consent to establish from 1998 to 2006 and thereafter no consent to Operate till 11.05.2017 and Industry is operated without appropriate permissions.
- f. Also Tehsildar Jintur has directed vide notice dated 24.07.2020 to Respondent No. 1 & 2 to deposit an amount of Rs. 230000/- on account of their cheque bounce and this cheque bounce is nothing but the cheating.
- g. Therefore, Respondent No. 1 & 2 must be imposed with damages of more than Rs. 3 Crores for environmental compensation as well as cost of restitution and restoration.
- h. Respondent No. 3- M/s. Krushna Stone Crusher is the Stone Crushing unit and Respondent No. 2 is also the owner of Respondent No. 3 carrying illegal Stone Quarry activity for providing raw material of stones / black traps.
- i. Residential Collector of Parabhani has passed an Order dated 25.06.2020 for taking necessary action against Respondent No. 3 for illegal mining activities and crushing and during the visit it is found that there us illegal mining of 4450.48 Cu. Mtrs. and there is stock of fine aggregates to the tune of 337.90 Cu. Mtrs. and directed Tehsildar Jintur to take appropriate action against the Respondent No. 3 for recovery of the revenue loss. Therefore there is illegal crushing and mining carried out by the

Respondent No. 3 and observation of MPCB in their site visit that unit is not in operational is totally false and baseless. Thus there must be strict action against these Respondent No. 2 & 3.

- j. Respondent No. 3-M/s. Krushna Stone Crusher is operating since more than 25 years without environment clearance, without consent to establish and without consent to operate and there is no compliance to environmental norms, therefore respondent No. 3 should also be imposed with damages of more than Rs. 3 Crores for environmental compensation as well as cost of restitution and restoration.
- k. The damages to the farms on account of agricultural loss and physical damage to the family member causing leg broken amounting lifetime injury, This Applicant No. 2-Mr. Kisan Adhe may kindly be granted with compensation as this courts deem fit.

28. DAMAGE TO THE ENVIRONMENT, ECOLOGY, PUBLIC HEALTH, AREA, FARMING & LIFE OF THE ORIGINAL APPLICANT NO. 2:

- A. Illegal mining of Respondent No. 1 has caused Death of driver due to falling into mine.
- B. Blasts in illegal mining has caused noise pollution.
- C. Blast in illegal mining has caused air pollution due to release of poisonous gases.
- D. Blast in illegal mining has caused change in earth structure further causing depletion in the ground water table and this is serious impact on the area as this area is already drought affected area having scarcity of water and less raining.

- E. Illegal crushing units has released lots of dust in the air and adversely impacted to the crops in the nearby vicinity including the Original Applicant No. 2 farming.
- F. Respondent No. 1 is the Stone Crushing unit and Respondent No. 2 is the owner of Respondent No. 1 carrying illegal Stone Quarry activity for providing raw material of stones/black traps.
- G. Respondent No. 1-M/s. Kashmira Stone Crusher has obtained Consent to Establish (CTE) dated 18.11.2006 for establishment of the industry / plant, which was valid till commissioning and as per condition No. 8 of this CTE it was mandatory on part of this Respondent No.1 to obtain the consent to Operate for starting of commercial production. But this Respondent No. 1 is failed to obtain the CTO from MPCB.
- H. Respondent No. 1 has obtained the Consent to Operate on 12.05.2017 without non-compliance to the terms and condition thereto and also in violation of terms and conditions of CTE dated 18.11.2006.
- I. There was no consent to establish from 1998 to 2006 and thereafter no consent to Operate till 11.05.2017 and Industry is operated without appropriate permissions.
- J. Respondent No. 1 himself has admitted in his letter dated 12.07.2017 that, the operation of the plant is undertaken from 1998 and has made excavation of 40574.86 Cu. Mtrs. of stone for which he has paid royalty of Rs. 78,74,212/- (Seventy Eight Lakhs Seventy Four Thousands two hundred and twelve rupees).

- K.** Residential Collector of Parbhani has passed an Order dated 25.06.2020 for taking necessary action against Respondent No. 3 for illegal mining activities and crushing and during the visit it is found that there is illegal mining of 4450.48 Cu. Mtrs. and there is stock of fine aggregates to the tune of 337.90 Cu. Mtrs. and directed Tehsildar Jintur to take appropriate action against the Respondent No. 3 for recovery of the revenue loss. Therefore, there is illegal crushing and mining carried out by the Respondent No. 3 and observation of MPCB in their site visit that unit is not in operational is totally false and baseless. Thus there must be strict action against these Respondent No. 2 & 3.
- L.** Also Tehsildar Jintur has directed vide notice dated 24.07.2020 to Respondent No. 1 & 2 to deposit an amount of Rs. 2,30,000/- on account of their cheque bounce and this cheque bounce is nothing but the cheating.
- M.** Respondent No. 1 to 3 has imposed with penalty of Rs. 3,84,46,400/- (Three Crores Eight four lakhs forty six thousands and four hundreds) by Tehsildar Jintur vide its letter dated 28.08.2020.
- N.** Illegal crushing units & illegal mining of Respondent No. 1 to 3 have adversely impacted the surrounding area and this Original Applicant No. 2 is sharing the boundary with these crusher and mining is therefore affected the farming of this Original Applicant and he is liable to get compensation.
- O.** Respondent No. 3-M/s. Krushna Stone Crusher is operating since more than 25 years without environment clearance, without consent to establish and without consent to operate and there is no compliance to environmental norms, therefore

Respondent No. 3 should also be imposed with damages of more than Rs. 3 Crores for environmental compensation as well as cost of restitution and restoration.

P. The damages to the farms on account of agricultural loss and physical damage to the family member causing leg broken amounting lifetime injury, This Applicant No. 2-Mr. Kisan Adhe may kindly be granted with compensation as this courts deem fit.

Q. Respondent No. 3-M/s. Krushna Stone Crusher is the Stone Crushing unit and Respondent No. 2 is also the owner of Respondent No. 3 carrying illegal Stone Quarry activity for providing raw material of stones / black traps.

R. Therefore, Respondent No. 1, 2 & 3 must be imposed with damages of more than Rs. 3 Crores each for environmental compensation as well as cost of restitution and restoration.

29. THEREFORE, Hon'ble NGT may kindly grant prayers in Original Application and Original Applicant No. 2 may kindly be awarded with damages from Respondent No. 1 to 3 for his farm & health etc. and further any other prayers in the interest of environmental justice.

30. Hence this written submissions.

Date: 06.10.2020



Nitin Lonkar

(Advocate for the Applicant No. 2)



Applicant No. 2
(Mr. Kisan Adhe)