

## BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

## WESTERN ZONE AT PUNE

## ORIGINAL APPLICATION NO. 45 OF 2021

**IN THE MATTER OF:**

Syamantak Trust

...Applicant

Versus

State of Maharashtra &amp; Ors.

...Respondents

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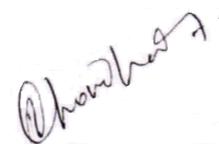
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Place:- Pune/Delhi

Dated;- 21.03.2023

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**ORIGINAL APPLICATION NO. 45 OF 2021**

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**WRITTEN SUBMISSIONS ON BEHALF OF THE APPLICANT**

**MOST RESPECTFULLY SHOWETH:**

1. That in compliance of the order dated 01.02.2023 of the Hon'ble Tribunal, the Applicant is filing the Written Submissions to provide clarifications as directed by the Hon'ble Tribunal. The relevant portion of the order is reproduced below:

*"17. ... therefore, how the Judgment passed on a date prior to the existing Rules coming into force, would be applicable in the present matter, needs to be answered by the learned Counsel for the Applicant by placing before us clear position.*

*18. The argument made by the learned Counsel for the Applicant to the effect that Dhamapur Lake has been identified as "Wetland" as per the document which he has relied upon, is annexed as Annexure-'A-2' cited above from page nos. 291 to 312 of the paper book, is not found to be justified because the same is not a Notification to the effect that the Dhamapur Lake is being notified as a "Wetland".*

2. That the Applicant has filed the above titled Original Application dated 23.06.2021 before the Hon'ble NGT against the gross violations of the Wetland (Conservation and Management) Rules, 2010 (hereinafter referred to as "**Wetland Rules, 2010**"), the Hon'ble Supreme Court order dated 08.02.2017 in ***M. K. Balakrishnan & Ors. v. Union of India & Ors. (WP (Civil) 230 of 2001***), the Wetland (Conservation and Management) Rules, 2017 (hereinafter referred to as "**Wetland Rules, 2017**") and the subsequent order of the Hon'ble Supreme Court dated 04.10.2017 in ***M. K. Balakrishnan & Ors. v. Union of***

*India & Ors. (WP (Civil) 230 of 2001)*, in the Dhamapur Lake area, Sindhudurg, through illegal reclamation and construction of residential property and concrete wall in the wetland area, illegal dumping of construction and demolition waste, installation of borewell, all located in or within 50 metres of the High Flood Level (HFL) of the Dhamapur wetland area.

3. That the Respondent No. 3 & 4 have relied on the Site Visit Report dated 21.10.2021 of Committee appointed and constituted by the Hon'ble Tribunal vide its order dated 15.07.2021 (hereinafter referred to as "**Site Visit Report**"), which is in ignorance to the order of the Hon'ble Supreme Court and other relevant documents which have been submitted in the subsequent paragraphs and is not repeated here for the sake of brevity. The Response of the Applicant dated 29.01.2022 to the Site Visit Report dated 21.10.2021, Additional Affidavit dated 05.11.2022 of the Applicant should be read as part and parcel of this Rejoinder to the Reply of Respondent.

**DHAMAPUR LAKE IS INVENTORIED IN THE NATIONAL WETLAND INVENTORY AND ASSESSMENT, 2011, HENCE, PROTECTED UNDER WETLAND (CONSERVATION AND MANAGEMENT) RULES, 2010 AND WETLAND (CONSERVATION AND MANAGMENT) RULES, 2017.**

**A. Dhamapur lake is inventoried in the National Wetland Inventory and Assessment in 2011.**

4. It is submitted that the National Wetland Inventory and Assessment project was formulated as a joint program of Ministry of Environment & Forests, Government of India, and Space Applications Centre, ISRO, Ahmedabad since an updated geospatial data base of these natural resources was the pre-requisite for management and conservation planning of wetlands. The National Wetland Inventory and the National Wetland Atlas was published in March, 2011 by Space Application Centre, Ahmedabad as a part of the project on the National Wetland Inventory and Assessment.

5. It is submitted that the National Level Wetland Inventory lists 2,01,503 wetlands with their geographical coordinates in Decimal Degrees format. Dhamapur lake is listed as a wetland in the National Wetland Inventory at serial number 116089 on page no. 1661. It is submitted that for the ease of understanding the following table shows the details of Dhamapur lake as in the National Wetland Inventory and the Brief Document of the lake as submitted on the website of the MoEF&CC (as submitted below in paragraph 17 of the present Submissions).

	National Wetland Inventory at serial no. 116089	Brief Document of the Dhamapur lake
Geo-coordinates (in Decimal degrees)	16.04021 (16°2'24"N) latitude, 73.59385 (73°35'37"E) longitude	16.03914 (16°2'20"N) latitude, 73.592586 (73°35'33"E) longitude
Area (in hectares)	61.44 hectares	61.44 hectares

The geographical coordinates as well as the area in the National Wetland Inventory match with those in the Brief Document that has been prepared as per the Wetland Rules, 2017 and published by the MoEF&CC. It is also submitted that these geographical coordinates are those of Dhamapur Lake in Sindhudurg district, Maharashtra, as seen on Google Earth.

A snapshot taken from Google Earth showing Dhamapur lake with the above-mentioned coordinates is annexed herewith as **Annexure- 1**.

A copy of Page No. 1661 of the National Wetland Inventory with Serial No. 116089 showing the geo-coordinates of Dhamapur lake is annexed herewith as **Annexure-2**.

6. It is also submitted that the National Wetland Atlas has state-wise atlas in which mapping of wetlands with area larger than 2.25 hectares has

been done district wise. Dhamapur lake is one of the wetlands that have been mapped in the district-wise wetland map of the Sindhudurg district. A map was prepared by the Applicant which overlays the Google Earth image of Dhamapur lake over the maximized image of the map of the wetlands of the Sindhudurg district as found on the National Wetland Atlas for the State of Maharashtra (**Annexure A-1 of the Additional Affidavit dated 05.11.2022 of the Applicant, at page no. 289-290**). This map shows the presence of the Dhamapur lake in the wetland map.

**B. Principles of Rule 4 of Wetland Rules, 2010 is applicable on the wetlands of National Wetland Inventory and Assessment in light of the Hon'ble Supreme Court order dated 08.02.2017 in *M.K. Balakrishnan v Union of India*.**

7. It is submitted that Rule 4 of the Wetland Rules, 2010 states the activities that shall be prohibited and activities that are to be restricted in a wetland for their protection.
8. It is submitted that in order dated 08.02.2017, Hon'ble Supreme Court in ***M. K. Balakrishnan v. Union of India [(2017) 7 SCC 810(2)]*** directed that the 2,01,503 wetlands as mapped by the Union of India in the National Wetland Inventory and Assessment are protected under the principles of Rule 4 of the Wetland Rules, 2010. The relevant portion of the order is reproduced below:

***"21. The learned counsel for the petitioners has drawn our attention to an additional affidavit filed by the Union of India on or about 9-9-2014. The additional affidavit contains an information brochure "National Wetland Inventory & Assessment". This brochure indicates on p. 11 thereof that 2,01,503 wetlands have been mapped at 1 : 50,000 scale. All these wetlands have an area of more than 2.25 ha. As a first step, the "brief documents" with regard to these 2,01,503 wetlands should be obtained by the Union of India from the respective State Governments in terms of Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. We are told that obtaining these "brief documents" may take some time. We are inclined to grant***

**adequate time for this purpose. The Union of India should follow this up with the State Governments and inform us of the time-frame on the next date of hearing.**

*22. The apprehension expressed by the learned counsel for the petitioners is that with the passage of time there is a possibility that some of the wetlands may disappear. On a reading of the information brochure, this apprehension is not unfounded.*

**23. Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorise all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:**

**"4. (1)(i)** reclamation of wetlands;

**(ii)** setting up of new industries and expansion of existing industries;

**(iii)** manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated 27-11-1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically Engineered Organisms or Cells notified vide GSR No. 1037(E), dated 5-12-1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated 24-9-2008;

**(iv)** solid waste dumping:

*Provided that the existing practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding six months from the date of commencement of these Rules;*

**(v)** discharge of untreated wastes and effluents from industries, cities or towns and other human settlements : *Provided that the practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding one*

*year from the date of commencement of these Rules;*

*(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these Rules;*

*(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these Rules.”*

(Emphasis Supplied)

A copy of the order of the Hon'ble Supreme Court in ***M. K. Balakrishna v Union of India*** dated 08.02.2017 is annexed herewith as **Annexure-3**.

9. It is submitted that because the National Wetland Inventory and Assessment includes Dhamapur lake, and that Brief Document for the lake has been prepared and thereafter, published by the MoEF&CC (**at Para No. 8, Page 277 as Annexure-A-2 of the Additional Affidavit of the Applicant dated 05.11.2022**) such activities as questioned in the above-titled Application are prohibited for the protection of Dhamapur lake as well.

**C. Principle of Rule 4 of the Wetland Rules, 2010 is applicable on the wetlands of National Wetland Inventory and Assessment post notification of Wetland Rules, 2017 in light of the Hon'ble Supreme Court order dated 04.10.2017 in *M.K. Balakrishnan v Union of India*.**

10. It is submitted that after notification of the Wetland (Conservation and Management) Rules, 2017 on 26.09.2017, the Hon'ble Supreme Court in its order dated 04.10.2017 in ***M. K. Balakrishnan v. Union of India [W.P. (C) No. 230 of 2001]*** held that even after notification of the Wetland Rules, 2017, 2,01,503 wetlands that have been mapped by the Union of India under the National Wetland Inventory

and Assessment would continue to remain protected as per the principles of Rule 4 of the Wetland Rules, 2010. The relevant portion of the order is reproduced below:

*"We have heard learned counsel for the petitioner and the learned Additional Solicitor General.*

***We have been informed that the Wetland Rules have since been notified and they are now called the Wetlands (Conservation and Management) Rules, 2017. These Rules have come into force on the date of publication in the official gazette, that is, 26<sup>th</sup> September, 2017.***

*Learned counsel for the parties say that they have very serious objections to some of these Rules. It is submitted that it appears that the Central Government has abdicated its responsibility under the Environment (Protection) Act, 1986 and instead of delegating its powers, it has abdicated its power in favour of the State Governments. We have also been informed that the Central Wetlands Regulatory Authority has since been disbanded and the State Wetlands Authority and the National Wetlands Committee have been constituted under Rules 5 and 6 of the new Rules.*

...

***We make it clear and reiterate that in terms of our order dated 8<sup>th</sup> February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010."***

(Emphasis Supplied)

A copy of the order of the Hon'ble Supreme Court in ***M. K. Balakrishna v Union of India*** dated 04.10.2017 is annexed herewith as **Annexure-4**.

**D. Rule 4 of the Wetland Rules, 2017 is applicable on the wetlands of National Wetland Inventory and Assessment as per the Office Memorandum issued by the MoEF&CC and Dhamapur lake is protected under the same as it is in the said Inventory.**

11. It is submitted that the MoEF&CC (Wetlands Division) published an Office Memorandum on 08.03.2022 to the Member Secretaries of the State and UT Wetlands Authorities stating that 2,01,503 wetlands

(>2.25 ha) as per the National Wetland Inventory and Assessment, 2011 should be protected as per the Rule 4 of the Wetland Rules, 2017, irrespective of the applicability of the Wetland Rules, 2017 or notification under the Wetland Rules, 2017. The relevant portion of the Office Memorandum is reproduced below:

*"The Hon'ble Supreme Court vide Order dated 4<sup>th</sup> October, 2017 in W.P. (C) No. 230 of 2001 has inter-alia, directed that, "We make it clear and reiterate that in terms of our order dated 8<sup>th</sup> February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010".*

*2. The same has been communicated by this Ministry to all the States and UTs in November, 2017. Hon'ble NGT has also reiterated the same in various recent cases.*

***3. In view of above, it is once again clarified/reiterated that the 2,01,503 wetlands (>2.25 ha) as per the National Wetland Inventory and Assessment (NWIA), 2011 should be protected as per Rule 4 of the Wetlands (Conservation and Management) Rules, 2017. This protection is irrespective of the applicability of/notification as per the said Rules."***

(Emphasis Supplied)

A copy of the Office Memorandum of the MoEF&CC (Wetlands division) dated 08.03.2022 is annexed herewith as **Annexure-5**.

12. It is submitted that Rule 3 of the Wetland Rules, 2017 lays down the provision for the applicability of the rules. It states as follows:

**"3. Applicability of rules.-** These rules shall apply to the following wetlands or wetland complexes, namely:-

(a) wetlands categorized as 'wetlands of international importance' under the Ramsar Convention;

(b) **wetlands as notified by the Central Government, State Government and Union Territory Administration:**

..."

(Emphasis Supplied)

13. It is submitted that Rule 4 of the Wetland Rules, 2017 lays down the activities to be prohibited within the wetlands. Rule 4 of the Wetland Rules, 2017 reads as follows:

**"4. Restrictions of activities in wetlands.-** (1) The wetlands shall be conserved and managed in accordance with the principle of 'wise use' as determined by the Wetlands Authority.

(2) The following activities shall be prohibited within the wetlands, namely.-

(i) conversion for non-wetland uses including encroachment of any kind;

(ii) setting up of any industry and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of construction and demolition waste covered under the Construction and Demolition Waste Management Rules, 2016; hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms Genetically engineered organisms or cells, 1989 or the Hazardous Wastes (Management, Handling

*and Transboundary Movement) Rules, 2008; electronic waste covered under the E-Waste (Management) Rules, 2016;*

*(iv) solid waste dumping;*

*(v) discharge of untreated wastes and effluents from industries, cities, towns, villages and other human settlements;*

*(vi) any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules; and*

*(vii) poaching.*

*Provided that the Central Government may consider proposals from the State Government or Union Territory Administration for omitting any of the activities on the recommendation of the Authority."*

14. It is submitted that because Dhamapur lake is one of the mapped wetlands in the National Wetland Inventory and Assessment, 2011 such activities as questioned in the above-titled Application are prohibited for the protection of Dhamapur lake as well. Moreover, it is denied that because the Dhamapur lake has not been notified yet, so Rule 4 of the Wetland Rules, 2017 cannot apply to it for its protection.

**PREPARATION AND PUBLICATION OF BRIEF DOCUMENT OF DHAMAPUR LAKE INDICATES THAT IT IS IDENTIFIED AS A WETLAND UNDER THE WETLAND RULES, 2017.**

**A. Preparation of Brief Document is done only for identified wetlands under Wetland Rules, 2017.**

15. It is submitted that a Brief Document is prepared only for a wetland identified to be notified and based on this Brief Document, recommendations are made by the State Wetland Authority to the

State Government for its notification under the Wetland Rules, 2017 as also submitted in the Additional Affidavit of the Applicant dated 05.11.2022 (**Para no. 7, Page no. 276**). Therefore, it is submitted that identification as a wetland is pre-requisite for preparation of its Brief Document.

16. It is submitted that the Hon'ble Bombay High Court in its order dated 15.01.2020 in the matter of ***Vanashakti Public Trust v Union of India (PIL No. 87 of 2013)*** directed the Principle Secretary, Environment of the State of Maharashtra to furnish Brief Documents of all the wetlands of Maharashtra in order to verify whether Brief Documents of wetlands that have been identified in the National Wetland Atlas has been prepared. The relevant part of the order dated 15.01.2020 is reproduced below:

*"9. In view thereof, the Principal Secretary (Environment) who is present in Court, has agreed to look into the above grievance of the Petitioner and make his submissions on the adjourned date. Also, **copies of all brief documents prepared for all wetlands in the State of Maharashtra shall be supplied to the Petitioner so as to enable the Petitioner to verify whether brief documents of all wetlands as already identified under the National Wetlands Atlas – Maharashtra, are being prepared and in a proper manner.**"*

(Emphasis Supplied)

A copy of the order of the Bombay High Court dated 15.01.2020 in ***Vanashakti Public Trust v Union of India*** is annexed herewith as **Annexure-6**.

The fact that Brief documents was directed to be prepared for all wetlands of Maharashtra including those mapped in the National

Wetland Atlas indicates that wetlands in the National Wetland Atlas qualifies to be put through the process of notification under the Wetland Rules, 2017. It is therefore submitted that the contention of Respondent No. 6 and 4 that the Dhamapur lake is not a wetland under the definition of the Wetland Rules, 2017 is erroneous and misleading.

**B. Brief document of Dhamapur lake has been published on the websites of MoEF&CC and of the Maharashtra Pollution Control Board.**

17. It is submitted that Brief Document has already been made and thereafter published by the MoEF&CC for Dhamapur Lake, Sindhudurg **(at Para No. 8, Page 277 as Annexure-A-2 of the Additional Affidavit of the Applicant dated 05.11.2022)**. This indicates that Dhamapur lake is identified as a wetland under Wetland Rules, 2017 and that its nature as a wetland cannot be put to question after the preparation of its Brief Document.
18. It is submitted that the Brief Document has also been prepared by the Sindhudurg Wetland Brief Documentation Committee which was constituted by the Office of the District Collector and District Magistrate, Sindhudurg vide its order dated 15.05.2018, allotting the task of Brief documentation of the wetlands in Sindhudurg district **(Annexure- A-2 of the Original Application at Page no. 34 to 46)**. It is submitted that it was directed to prepare the brief documents for the wetlands using the information available on the mobile map which has been created by the Respondent No. 1 for the said purpose. A copy of the Order dated 15.05.2018 by the Office of the District Collector and District Magistrate, Sindhudurg along with the translated copy is annexed herewith as **Annexure-7**.

**EXEMPTION OF DHAMAPUR LAKE FROM DEFINITION OF WETLAND IS DELIBERATE ATTEMPT OF AUTHORITIES TO DISREGARD THE ORDER OF HON'BLE SUPREME COURT IN**

***M.K. BALAKRISHNAN V. UNION OF INDIA, BRIEF DOCUMENT AND THE MAHRASHTRA REMOTE SENSING APPLICATION CENTRE MAP.***

19. That the Respondent No. 4, i.e, Maharashtra State Wetland Committee and Respondent No. 3, District Magistrate, Sindhudurg, were a part of the Site Visit Committee that was constituted by the Hon'ble NGT vide its order dated 15.07.2021. The Site Visit Report recorded that Dhamapur lake is exempted from the definition of wetland.

**A. Dhamapur lake has been exempted from wetland definition by the Respondent authorities in ignorance of the orders of Hon'ble Supreme Court in *M.K. Balakrishna v Union of India*, the Brief Document and the wetland map of the Maharashtra Remote Sensing Application Centre for Dhamapur lake.**

20. It is submitted that the Hon'ble Supreme Court in its order dated 08.02.2017 in ***M.K. Balakrishna v Union of India [(2017) 7 SCC 810(2)]*** noted that 2,01,503 wetlands have been mapped by the MoEF&CC as a part of the National Wetland Inventory and Assessment out of which one is Dhamapur lake in Sindhudurg, as also stated in paragraphs 4-6 of the present submissions. The relevant portion of the order is reproduced below:

*"21. The learned counsel for the petitioners has drawn our attention to an additional affidavit filed by the Union of India on or about 9-9-2014. The additional affidavit contains an information brochure "National Wetland Inventory & Assessment". **This brochure indicates on p. 11 thereof that 2,01,503 wetlands have been mapped at 1 : 50,000 scale. All these wetlands have an area of more than 2.25 ha.** As a first step, the "brief documents" with regard to these 2,01,503 wetlands should be obtained by the Union of India from the respective State Governments in terms of Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. We are told that obtaining these "brief documents" may take some time. We are inclined to grant adequate time for this purpose. The Union of India*

*should follow this up with the State Governments and inform us of the time-frame on the next date of hearing.”*

(Emphasis Supplied)

21. It is submitted that Respondent No. 4 has knowledge of the preparation and publication of the Brief Document for Dhamapur lake. As per the Wetland Rules, 2017 and the 2020 Guidelines for Implementing the Wetland (Conservation and Management) Rules, 2017, the overall mandate of the wetland authority of a state is protection and conservation of wetlands of the state, which includes preparation of brief document. Specifically, Guideline no. III.15 of the 2020 Guidelines states that the wetland authority for their function of preparing Brief Document may identify a professional institute(s)/organization(s) for assistance. The relevant portion of the 2020 Guidelines is reproduced below:

***“III. Wetland Authorities***

*15. The State Government or UT Administration shall designate a department as nodal department for wetlands. Such department shall provide all necessary support and act as Secretariat to the Authority. The State Governments / UT Administrations may allocate sufficient budget and human resources to ensure smooth functioning of the Authority and conduct of its various activities. **The Authority and the nodal department may identify a professional institute(s)/organization(s) that would assist them in their various functions such as preparing a list of wetlands, Brief Documents for notification etc.”***

(Emphasis Supplied)

22. It is submitted that the authorities have ignored the Brief Document prepared for Dhamapur lake and published by the MoEF&CC which is prepared for an identified wetland as submitted in paragraphs 15 & 16 of the present Submissions. It is submitted that the Respondent authorities have wilfully ignored the wetland map that was prepared by the Maharashtra Remote Sensing Application Centre for the office of the Deputy Collector, Sindhudurg.
23. It is submitted that the authorities have also ignored the Brief Document prepared for Dhamapur lake by the Committee and published on the Maharashtra Pollution Control Board website as also submitted in paragraph 18 of the present Written Submissions, despite the fact that the tagging of the wetland has been verified by the Respondent No. 3. **(Annexure A2 of the Original Application at Page no. 35).**
24. Therefore, Dhamapur lake cannot be exempted from the definition of wetland is in disregard to and willful ignorance of the order of the Hon'ble Supreme Court, the Brief Document and the MRSAC map.

**B. Respondent No. 3 noted in Site Visit Report that Dhamapur lake is exempted from wetland definition, however the Dhamapur Wetland Map was prepared by Maharashtra Remote Sensing Application Centre for its office (Deputy Collector, Sindhudurg)**

25. It is submitted that the map titled 'Dhamapur Lake Wetland Map' as also submitted as Annexure-A-1, at page no. 202, of the Response of the Applicant dated 29.01.2022 to the Site Visit Report dated 21.10.2021 has been prepared by the Maharashtra Remote Sensing Application Centre for the Deputy Collector, Sindhudurg and uses the government records and satellite data as data sources. That the Deputy Collector, Sindhudurg is a part of the Office of the Collectorate, Sindhudurg District. Therefore the stand taken by the district

administrative office in the Site Visit Report that the Dhamapur lake is exempted from wetland definition is contrary to the map prepared for the office.

**CONSTRUCTION OF A CONCRETE WALL AND EXCAVATION OF SOIL BY RESPONDENT NO. 8 ON HIS LAND FALLS WITHIN 50 METRES FROM HIGH FLOOD LEVEL OF THE DHAMAPUR LAKE WETLAND**

26. It is submitted that the coordinates with the title "illegal reclamation" on the mapping of the Dhamapur lake wetland done by the Maharashtra Remote Sensing Application Centre (**Annexure-A-1, at page no. 202, of the Response of the Applicant dated 29.01.2022 to the Site Visit Report dated 21.10.2021**) show the mentioned construction on private land of Respondent No. 8 which clearly lies within the buffer zone of 50 metres from the High Flood Line of the Dhamapur wetland. Therefore, it is an illegal construction under Wetland Rules, 2017.
27. It is submitted that, however, the said construction might have submerged underwater before the site visit by the Committee on whose Report the Respondent No. 3 has relied upon. The said concrete wall still exists within 50 metres from the High Flood Level of the Dhamapur lake.

Thus, in light of the above, the prayers in the Original Application should be allowed by the Hon'ble Tribunal.

Through



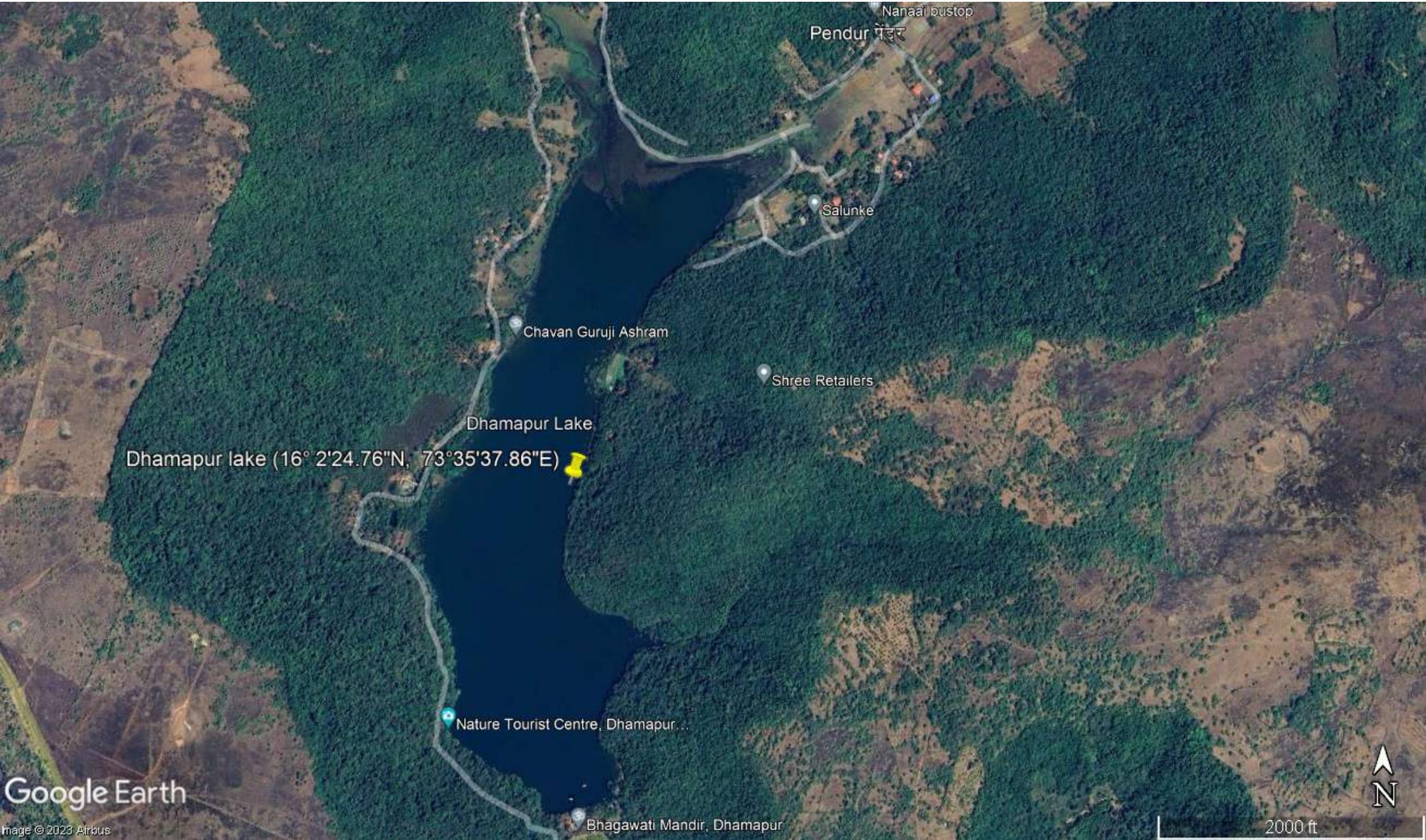
**RITWICK DUTTA**



**RAHUL CHOUDHARY**

**COUNSEL FOR THE APPLICANTS**

**Dated:- 21.03.2023**



Google Earth

Image © 2023 Airbus

2000 ft



## **NATIONAL WETLAND INVENTORY AND ASSESSMENT**

The National level wetland inventory was carried out by SAC, Ahmedabad using multi-date IRS-LISS-III Data of 2006-07 timeframe on 1:50,000 scale under project "National Wetland Inventory and Assessment (NWIA)" funded by MoEF&CC. The mapping was carried in collaboration with State Remote Sensing Applications Centres and Academic Institutes.

The country level geodatabase of NWIA06-07 has been hosted on SAC web portal (<http://www.vedas.sac.gov.in>) for viewing purpose. Wetland atlases (.pdf format) are also hosted on the web portal.

The inventory of wetlands (State-wise/sorted on State code), State code and description are given below. The total wetlands (>2.25 ha) are 2,01,503 including rivers/streams. This list comprise details of 1,75,740 wetlands. Rivers/streams (~25,763 polygons) are not included in the list.

The State code of wetlands at S.No. 175739 and 175740 shall be read as 05 instead of 53.

116056	73.48378	16.15690	2104	Coastal - Natural - Inter-tidal Mud-flat	21.52	2733044708080035		N	NA
116057	73.47855	16.15545	2106	Coastal - Natural - Mangrove	5.35	2733044708080036		Y	NA
116058	73.47953	16.15167	2104	Coastal - Natural - Inter-tidal Mud-flat	8.00	2733044708080037		N	NA
116059	73.48609	16.15181	2104	Coastal - Natural - Inter-tidal Mud-flat	2.35	2733044708080038		N	NA
116060	73.48707	16.14726	2104	Coastal - Natural - Inter-tidal Mud-flat	8.21	2733044708080039		N	NA
116061	73.48340	16.13538	2104	Coastal - Natural - Inter-tidal Mud-flat	71.01	2733044708080040		N	NA
116062	73.46946	16.13656	2104	Coastal - Natural - Inter-tidal Mud-flat	15.45	2733044708080042		N	NA
116063	73.46324	16.13588	2106	Coastal - Natural - Mangrove	11.92	2733044708080043		Y	NA
116064	73.46550	16.13287	2106	Coastal - Natural - Mangrove	25.76	2733044708080044		Y	NA
116065	73.48458	16.13152	2104	Coastal - Natural - Inter-tidal Mud-flat	19.16	2733044708080045		N	NA
116066	73.46379	16.09405	2104	Coastal - Natural - Inter-tidal Mud-flat	12.61	2733044708080046		N	NA
116067	73.45950	16.07970	2103	Coastal - Natural - Sand/Beach	2.37	2733044708080047		N	NA
116068	73.47689	16.07472	2106	Coastal - Natural - Mangrove	34.28	2733044708080048		Y	NA
116069	73.47474	16.07784	2104	Coastal - Natural - Inter-tidal Mud-flat	23.25	2733044708080049		N	NA
116070	73.47254	16.07534	2106	Coastal - Natural - Mangrove	5.34	2733044708080051		Y	NA
116071	73.47293	16.07155	2102	Coastal - Natural - Creek	36.12	2733044708080052	Kolamb Creek	N	M
116072	73.46797	16.07225	2106	Coastal - Natural - Mangrove	2.60	2733044708080053		Y	NA
116073	73.47286	16.07068	2104	Coastal - Natural - Inter-tidal Mud-flat	5.36	2733044708080054		N	NA
116074	73.47998	16.07145	2104	Coastal - Natural - Inter-tidal Mud-flat	7.03	2733044708080055		N	NA
116075	73.48072	16.03003	2103	Coastal - Natural - Sand/Beach	74.67	2733044708080058		N	NA
116076	73.45882	16.05293	2103	Coastal - Natural - Sand/Beach	2.92	2733044708080059		N	NA
116077	73.47512	16.04248	2102	Coastal - Natural - Creek	19.15	2733044708080061		N	M
116078	73.48855	16.01402	2103	Coastal - Natural - Sand/Beach	10.86	2733044708080062		N	NA
116079	73.49737	16.00693	2106	Coastal - Natural - Mangrove	15.10	2733044708080063		Y	NA
116080	73.46017	16.10166	2103	Coastal - Natural - Sand/Beach	48.23	2733044708080069		N	NA
116081	73.44909	16.15430	2103	Coastal - Natural - Sand/Beach	3.68	2733044708080071		N	NA
116082	73.45948	16.06258	2103	Coastal - Natural - Sand/Beach	8.01	2733044708080075		N	NA
116083	73.51174	16.19640	2104	Coastal - Natural - Inter-tidal Mud-flat	112.59	2733044708120001		N	NA
116084	73.51003	16.19825	1105	Inland - Natural - Waterlogged	5.36	2733044708120003		N	M
116085	73.50380	16.18563	2104	Coastal - Natural - Inter-tidal Mud-flat	4.90	2733044708120004		N	NA
116086	73.58889	16.16629	1202	Inland - Man-made - Tank/Pond	31.97	2733044708120005		N	H
116087	73.61074	16.11271	1202	Inland - Man-made - Tank/Pond	2.32	2733044708120009		N	M
116088	73.61286	16.07059	1202	Inland - Man-made - Tank/Pond	26.47	2733044708120012		N	H
116089	73.59385	16.04021	1202	Inland - Man-made - Tank/Pond	61.44	2733044708120014		N	L
116090	73.59432	16.02022	2106	Coastal - Natural - Mangrove	13.34	2733044708120020		Y	NA
116091	73.52910	16.01531	2106	Coastal - Natural - Mangrove	17.17	2733044708120021		Y	NA
116092	73.51430	16.01349	2106	Coastal - Natural - Mangrove	23.97	2733044708120022		Y	NA
116093	73.55649	16.01429	2106	Coastal - Natural - Mangrove	12.13	2733044708120023		Y	NA
116094	73.60386	16.01130	2106	Coastal - Natural - Mangrove	2.27	2733044708120024		Y	NA
116095	73.49433	15.99823	2106	Coastal - Natural - Mangrove	15.41	2733044805050001		Y	NA
116096	73.49724	15.97410	2103	Coastal - Natural - Sand/Beach	17.42	2733044805050003		N	NA
116097	73.49629	15.99360	2106	Coastal - Natural - Mangrove	7.49	2733054805050002		Y	NA
116098	73.55477	16.01145	2102	Coastal - Natural - Creek	871.08	2733054805090001	Karli Creek	N	M
116099	73.50508	15.95936	2103	Coastal - Natural - Sand/Beach	16.11	2733054805090003		N	NA
116100	73.55715	15.94587	2104	Coastal - Natural - Inter-tidal Mud-flat	19.16	2733054805090004		N	NA
116101	73.54324	15.94262	2102	Coastal - Natural - Creek	54.57	2733054805090005		N	M
116102	73.55100	15.94575	2104	Coastal - Natural - Inter-tidal Mud-flat	8.47	2733054805090006		N	NA
116103	73.54241	15.94244	2104	Coastal - Natural - Inter-tidal Mud-flat	6.60	2733054805090007		N	NA
116104	73.54532	15.94141	2104	Coastal - Natural - Inter-tidal Mud-flat	6.44	2733054805090008		N	NA
116105	73.51744	15.93921	2103	Coastal - Natural - Sand/Beach	4.53	2733054805090009		N	NA
116106	73.54228	15.93391	2103	Coastal - Natural - Sand/Beach	8.88	2733054805090010		N	NA
116107	73.72548	15.92899	1202	Inland - Man-made - Tank/Pond	26.63	2733054805090011		N	L
116108	73.56137	15.92299	2102	Coastal - Natural - Creek	29.20	2733054805090012		N	M
116109	73.57348	15.91310	2102	Coastal - Natural - Creek	22.05	2733054805090014		N	M
116110	73.59091	15.91172	2102	Coastal - Natural - Creek	17.32	2733054805090015		N	M
116111	73.59614	15.89570	2102	Coastal - Natural - Creek	19.67	2733054805090018		N	M
116112	73.60559	15.87785	2103	Coastal - Natural - Sand/Beach	35.39	2733054805090021		N	NA
116113	73.61591	15.86859	2102	Coastal - Natural - Creek	23.59	2733054805090022		N	M
116114	73.66916	15.86926	1202	Inland - Man-made - Tank/Pond	5.50	2733054805090023		N	M
116115	73.61851	15.86909	2106	Coastal - Natural - Mangrove	4.09	2733054805090024		Y	NA
116116	73.61156	15.85998	2103	Coastal - Natural - Sand/Beach	5.76	2733054805090025		N	NA
116117	73.62460	15.85568	2102	Coastal - Natural - Creek	31.30	2733054805090026		N	M
116118	73.63128	15.84029	2103	Coastal - Natural - Sand/Beach	74.20	2733054805090027		N	NA
116119	73.66093	15.80631	2102	Coastal - Natural - Creek	74.96	2733054805090029		N	M
116120	73.66303	15.81059	2106	Coastal - Natural - Mangrove	5.62	2733054805090030		Y	NA
116121	73.64462	15.80795	2103	Coastal - Natural - Sand/Beach	4.16	2733054805090031		N	NA
116122	73.66356	15.80286	2104	Coastal - Natural - Inter-tidal Mud-flat	54.12	2733054805090032		N	NA
116123	73.66264	15.80343	2106	Coastal - Natural - Mangrove	16.42	2733054805090033		Y	NA
116124	73.65224	15.79844	2103	Coastal - Natural - Sand/Beach	40.56	2733054805090034		N	NA
116125	73.65558	15.79891	2106	Coastal - Natural - Mangrove	6.15	2733054805090036		Y	NA

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SUPREME COURT CASES

(2017) 7 SCC

**(2017) 7 SCC 810(1)****ORDER dated 31-1-2017**

(BEFORE MADAN B. LOKUR AND PRAFULLA C. PANT, JJ.)

a

Writ Petition (C) No. 230 of 2001

**11.** On the request of the learned Senior Counsel appearing for the Union of India, list the matter on 7-2-2017.

**12.** In the meanwhile, we would like him to take definite instructions on whether the Draft Wetlands (Conservation and Management) Rules, 2016 which were said to have been circulated sometime in March 2016 have been finalised or not and, if not, reasons for the delay. We would also like to know specifically whether the Central Wetlands Regulatory Authority, whose term expires on or about 14-2-2017, has been reconstituted and, if not, reasons for the delay. We would also like the Union of India to tell us what specific steps have been taken to preserve the 26 wetlands covered by the Ramsar Convention, 1971.

**13.** We make it clear that the petition is required to be taken seriously by the Union of India.

**(2017) 7 SCC 810(2)****ORDER dated 8-2-2017**

(BEFORE MADAN B. LOKUR AND PRAFULLA C. PANT, JJ.)

d

Writ Petition (C) No. 230 of 2001

**14.** We have, at length, heard the learned counsel for the parties including the learned counsel for the Union of India.

**15.** An affidavit dated 7-2-2017 filed by the Union of India has been shown to us. Annexed to the affidavit is an office memorandum issued on 6-1-2017 with reference to the Draft Wetlands (Conservation and Management) Rules, 2016. The Draft Rules were made available to the public for inviting objections/suggestions sometime in March 2016. As many as 175 comments were received. For the examination of these comments, a Committee has been constituted. The Committee was given 45 days to look into the suggestions and submit its report to the Union of India.

**16.** We are told orally by the learned counsel appearing for the Union of India that perhaps the term of the Committee may need to be extended. This is stated by him on the basis of information received pursuant to a meeting held yesterday i.e. 7-2-2017 by the said Committee.

**17.** Be that as it may, for the reasons given below, we are compelled to direct that the Wetlands (Conservation and Management) Rules, 2016 should be notified on or before 30-6-2017. We are compelled to issue this direction since the matter has been pending with the Union of India for the last almost a year and there has to be some finality to the publication of the Rules. The comments/suggestions have been given by all stakeholders such as the State Governments

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a including its organisations, individuals and civil society organisations. That being the position, there is obviously a great deal of interest in the Rules being formulated and notified. Under these circumstances, there is no justification why the Union of India should not have taken prompt action and constituted the Committee much earlier for the purposes of finalising the Rules. Finally, the conservation of wetlands is of immense ecological importance.

b **18.** The learned counsel for the Union of India says that all efforts will be made to ensure compliance with this direction and to ensure that the Rules are notified on or before 30-6-2017. We are sure that both the Committee as well as the Union of India will take into consideration the comments and suggestions offered by the State Governments and its organisations, individuals and civil society organisations before taking a final decision.

c **19.** With regard to the Central Wetlands Regulatory Authority, we are told that its term is expiring on 14-2-2017. We have been informed by the learned counsel for the Union of India that the Central Wetlands Regulatory Authority will be notified on 13-2-2017. The Union of India is bound by the statement made by the learned counsel for the Union of India, which statement has been made on instructions received by him from an officer of the Ministry of Environment, Forest and Climate Change.

d **20.** In our order dated 31-1-2017<sup>2</sup>, we had required the Union of India to tell us the steps taken to preserve the 26 wetlands covered by Ramsar Convention, 1971. The affidavit that has now been filed by the Union of India merely gives the disbursal of amount made by the Union of India from time to time. What specific steps have been taken including how the funds made available have been utilised and what is the impact of those steps have not been adverted to. We must have specific details. We direct the Union of India to file an affidavit e within four weeks positively giving required specific details.

f **21.** The learned counsel for the petitioners has drawn our attention to an additional affidavit filed by the Union of India on or about 9-9-2014. The additional affidavit contains an information brochure “National Wetland Inventory & Assessment”. This brochure indicates on p. 11 thereof that 2,01,503 wetlands have been mapped at 1:50,000 scale. All these wetlands have an area of more than 2.25 ha. As a first step, the “brief documents” with regard to these 2,01,503 wetlands should be obtained by the Union of India from the respective State Governments in terms of Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. We are told that obtaining these “brief documents” may take some time. We are inclined to grant adequate time for this purpose. The Union of India should follow this up with the State g Governments and inform us of the time-frame on the next date of hearing.

**22.** The apprehension expressed by the learned counsel for the petitioners is that with the passage of time there is a possibility that some of the wetlands may disappear. On a reading of the information brochure, this apprehension is not unfounded.

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<sup>2</sup> Set out in paras 11 to 13, above.

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SUPREME COURT CASES

(2017) 7 SCC

**23.** Accordingly, we direct the application of the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010 to these 2,01,503 wetlands that have been mapped by the Union of India. The Union of India will identify and inventorise all these 2,01,503 wetlands with the assistance of the State Governments and will also communicate our order to the State Governments which will also bind the State Governments to the effect that these identified 2,01,503 wetlands are subject to the principles of Rule 4 of the Wetlands (Conservation and Management) Rules, 2010, that is to say:

**“4. (1)(i)** reclamation of wetlands;

**(ii)** setting up of new industries and expansion of existing industries;

**(iii)** manufacture or handling or storage or disposal of hazardous substances covered under the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 notified vide S.O. No. 966(E), dated 27-11-1989 or the Rules for Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms/Genetically Engineered Organisms or Cells notified vide GSR No. 1037(E), dated 5-12-1989 or the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 notified vide S.O. No. 2265(E), dated 24-9-2008;

**(iv)** solid waste dumping:

Provided that the existing practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding six months from the date of commencement of these Rules;

**(v)** discharge of untreated wastes and effluents from industries, cities or towns and other human settlements:

Provided that the practices, if any, existed before the commencement of these Rules shall be phased out within a period not exceeding one year from the date of commencement of these Rules;

**(vi)** any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these Rules;

**(vii)** any other activity likely to have an adverse impact on the ecosystem of the wetland to be specified in writing by the Authority constituted in accordance with these Rules.”

**24.** The learned counsel for the Union of India has shown us a chart of proposals/brief documents that have already been received by the Union of India under Rule 6 of the Wetlands (Conservation and Management) Rules, 2010. The total number of wetlands covered in this document are 1683. Many of these proposals/brief documents received by the Union of India contain deficiencies which have already been identified in the document handed over to us. The Central Wetland Regulatory Authority will take up the rectification of deficiencies with the State Governments with promptitude and ensure that all these deficiencies are removed and complete proposals/brief documents are furnished within the next about one month so that the Central Wetlands





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- (6) Kerala High Court,
- (7) Madhya Pradesh High Court,
- (8) Manipur High Court, a
- (9) Orissa High Court,
- (10) Punjab and Haryana High Court,
- (11) Rajasthan High Court,
- (12) Madras High Court,
- (13) Tripura High Court, b
- (14) Allahabad High Court; and
- (15) High Court at Calcutta.

**31.** The affidavit be sent to the Registrar General of all the aforementioned High Courts within two weeks from today. A copy of all the orders passed by this Court from 10-9-2014<sup>1</sup> till today<sup>†</sup> shall also be sent to the High Courts concerned along with the affidavit. c

**32.** We request the Hon'ble the Chief Justices of the High Courts concerned to treat the affidavit as a suo motu public interest petition and, if necessary, appoint an Amicus Curiae to assist the Court so as to ensure that the Ramsar Convention sites within their jurisdiction are properly maintained.

**33.** The affidavit by the Union of India should be filed within six weeks. List the matter on 12-7-2017. d

Court Master

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END OF THE VOLUME e

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<sup>1</sup> Set out in paras 1 to 7, above. h

<sup>†</sup> **Ed.:** The reference is to *M.K. Balakrishnan v. Union of India*, WP (C) No. 230 of 2001, orders dated 1-12-2016, 17-1-2017, 31-1-2017 and 8-2-2017 (SC)

ITEM NO.4

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 230/2001

M.K. BALAKRISHNAN &amp; ORS.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

Date : 04-10-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE S. ABDUL NAZEER  
HON'BLE MR. JUSTICE DEEPAK GUPTAFor Petitioner(s) Mr. Gopal Sankaranarayanan, Adv.  
Mr. Shrutanjaya Bhardwaj, Adv.  
Ms. Veera Mahuli, Adv.  
Mr. Naresh Kumar, AORFor Respondent(s)/  
applicant(s)  
UOI/DelhiMr. A.N.S. Nadkarni, ASG  
Mr. A.K. Panda, Sr. Adv.  
Mr. Wasim A. Qadri, Adv.  
Mr. Ajay Kumar Singh, Adv.  
Ms. Binu Tamta, Adv.  
Mrs. Sunita Sharma, Adv.  
Mr. Sanjai Kumar Pathak, Adv.  
Mr. Shalinder Saini, Adv.  
Mr. G.S. Makker, Adv.  
Mr. B.V. Balram Das, Adv.  
Mr. S.A. Siddiqui, Adv.  
Mr. Satya Siddiqui, Adv.  
Mr. Zaki Kazmi, Adv.

Intervenor

Mr. Jayant Bhushan, Sr. Adv.  
Mr. Ketan Paul, Adv.  
Ms. Reeja Varghese, Adv.  
Mr. Chirayu Jain, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

We have heard learned counsel for the petitioner and the learned Additional Solicitor General.

We have been informed that the Wetland Rules have since been notified and they are now called the Wetlands (Conservation and Management) Rules, 2017. These Rules have come into force on the date of publication in the official gazette, that is, 26<sup>th</sup> September, 2017.

Learned counsel for the parties say that they have very serious objections to some of these Rules. It is submitted that it appears that the Central Government has abdicated its responsibility under the Environment (Protection) Act, 1986 and instead of delegating its powers, it has abdicated its power in favour of the State Governments. We have also been informed that the Central Wetlands Regulatory Authority has since been disbanded and the State Wetlands Authority and the National Wetlands Committee have been constituted under Rules 5 and 6 of the new Rules.

With regard to the expenditure on Ramsar Convention sites, we have been informed by learned Additional Solicitor General that the audited accounts have so far been received from the States of West Bengal, Madhya Pradesh and Odisha. Audited accounts have not been received from any other State with regard to the Ramsar

Convention sites.

We have also been informed that apart from Ramsar Convention sites, further funds have been given to the States and the Union Territories for conservation of wetlands. No audited accounts have been received in regard to these funds disbursed as well as their expenditure by the State Governments and the Union Territories.

With regard to the brief documents required to be furnished under the old Rules, it appears that only ten States and one Union Territory have responded. It appears that there is now no necessity of brief documents under the new Rules. We make it clear that this does not mean that the earlier brief documents already submitted can be discarded completely. The contents of these brief documents will still be followed as far as the implementation of the Wetlands (Conservation and Management) Rules, 2017 is concerned.

Finally, with regard to the satellite images, we are told that the Space Application Centre would require between 12 to 18 months to make an inventory of 1,75,740 wetlands as they exist today. We make no comment on this but request learned Additional Solicitor General to re-check with the Space Application Centre since the wetlands are diminishing in our country at a very fast rate. It is very likely that many more will disappear by the time the task is completed by the Space Application

Centre.

We make it clear and reiterate that in terms of our order dated 8<sup>th</sup> February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.

Learned counsel for the parties may file their objections to the new Rules within a period of two weeks. We direct that only one set of objections should be filed and both learned counsel should sit together and arrive at some consensus on the objections.

We further direct the State Governments that have not complied with earlier orders or directions given by the Central Government should do so within a period of four weeks from today failing which we will be constrained to require the presence of the Chief Secretaries of the State Governments in addition to imposition of heavy costs keeping in mind the necessity of conserving whatever water bodies are left in the country.

List the matter for further directions and for hearing on the objections to the new Rules on 9<sup>th</sup> November, 2017.

We would require the presence of a senior officer of the Ministry of Environment, Forests and Climate Change, Government of India to be present in Court on the next date of hearing so that any questions that may be raised

can be answered immediately. Needless to say, the senior officer who should be present in Court should be well-versed with the subject. The files on the basis of which the new Rules have been framed may also be kept ready for perusal when the matter is taken up.

(SANJAY KUMAR-I)  
AR-CUM-PS

(KAILASH CHANDER)  
COURT MASTER

**F. No. W-4/4/2022-WTL**  
**Government of India**  
**Ministry of Environment, Forest & Climate Change**  
**(Wetlands Division)**

Indira Paryavaran Bhawan  
Jor Bagh Road, New Delhi -110003

Dated 8<sup>th</sup> March, 2022

**OFFICE MEMORANDUM**

**Subject: Protection of Wetlands as per Rule 4 of the Wetlands (Conservation and Management) Rules, 2017**

The Hon'ble Supreme Court vide Order dated 4<sup>th</sup> October, 2017 in W.P. (C) No. 230 of 2001 has inter-alia, directed that, *"We make it clear and reiterate that in terms of our order dated 8<sup>th</sup> February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010"*.

2. The same has been communicated by this Ministry to all the States and UTs in November, 2017. Hon'ble NGT has also reiterated the same in various recent cases.

3. In view of above, it is once again clarified/reiterated that the 2,01,503 wetlands (>2.25 ha) as per the National Wetland Inventory and Assessment (NWIA), 2011 should be protected as per Rule 4 of the Wetlands (Conservation and Management) Rules, 2017. This protection is irrespective of the applicability of/notification as per the said Rules.

*Ramesh*

(Dr. M. Ramesh)  
Scientist 'E'

Tel.: 011-20819249

Email: [ramesh.motipalli@nic.in](mailto:ramesh.motipalli@nic.in)

To

The Member Secretaries of State and UT Wetlands Authorities

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.303 OF 2018**

M/s. Kale Entertainment and Resorts Pvt. Ltd. ... Petitioner

Versus

Union of India and others ... Respondents

**ALONGWITH**

**PUBLIC INTEREST LITIGATION NO.87 OF 2013**

Vanashakti Public Trust ... Petitioner

versus

Union of India and others ... Respondents

Mr. Subhash Abhyankar with Ms. Anu Karadharan, for Petitioner in WP No.303 of 2018.

Mr. Zaman Ali with Ms. Sheetal Alvarez, for Petitioner in PIL 87 of 2013.

Mr. N.R.Bubna, for Respondent No.1 in WP No.303 of 2018.

Mr. P.P.Kakade, Govt. Pleader, with Ms. M.P.Thakur, AgP, for State in WP No.303 of 2018.

Mr. G.W.Mattos, AGP, for Respondent in PIL 87 of 2013.

Ms. Swati Sagvekar, for Respondent Nos.3 and 4 in WP No.303 of 2018.

Ms. Sharmila Deshmukh, for Respondent No.10 in PIL 87 of 2013.

Mr. Milan Bhise with Mr. Amit Bhawe, Mr. Vinod Sakpal, Mr. Akshay Kandarkar i/by Mr. Rajesh Datar, for Applicant in NMS 151 of 2017.

Mr. Anil Diggikar, Principal Secretary, Environment Dept., present.

**CORAM: S.J. KATHAWALLA &  
B.P.COLABAWALLA, JJ.**

**DATE: 15<sup>th</sup> JANUARY, 2020**

**P.C.:**

1. In May 2010, under the sponsorship of Central Government – Ministry of Environment, Forests and Climate Change, the Space Application Centre (SAC),

Ahmedabad & Maharashtra Remote Sensing Application Centre (MRSAC), Nagpur prepared a **National Wetland Atlas for Maharashtra** for the following reasons :

*“Utility-wise, wetlands directly and indirectly support millions of people in providing services such as food, fiber and raw materials. They play important roles in storm and flood control, in supply of clean water, alongwith other educational and recreational benefits. Despite these benefits, wetlands are the first target of human interference and are among the most threatened of all natural resources. Around 50% of the earth’s wetlands are estimated to already have disappeared worldwide over the last hundred years through conversion to industrial, agricultural and residential purposes. Even in current scenario, when the ecosystem services provided by wetlands are better understood – degradation and conversion of wetlands continues.*

*Aware of their importance, the Government of India has formulated several policies and plans for the conservation and preservation of these crucial ecosystems. Realising the need of an updated geospatial data base of these natural resources as the pre-requisite for management and conservation planning, National Wetland Inventory and Assessment (NWIA) project was formulated as a joint vision of Ministry of Environment & Forestry, Govt. of India, and Space Applications Centre (ISRO).” (emphasis supplied)*

2. The National Wetlands Atlas for Maharashtra identifies a total of 46,460 Wetlands in the entire State of Maharashtra. A Chart showing district wise break-up of all Wetlands in Maharashtra as per the said Atlas is tendered in Court. The same is

taken on record and marked 'X' for identification.

3. On 14<sup>th</sup> October, 2013 this Court in Public Interest Litigation (PIL) No.87 of 2013 passed the following order :

*"1. By order dated 16<sup>th</sup> September, 2013, we had directed the State Government to take a decision whether they propose to adopt the Wetland Atlas prepared by the Central Government and whether they would like to prepare a brief document in respect of Wetland Atlas for the State of Maharashtra as envisaged under Rules 6(2) and 6(3) of the Wetland Rules, 2020. Unfortunately, the said direction does not appear to have been incorporated in our order dated 16<sup>th</sup> September, 2013. We therefore, now direct the Secretary, Department of Environment and the Secretary of Forest Department, Government of Maharashtra to take a decision whether they propose to adopt Wetland Atlas, prepared by the Central Government under the said Rules and whether they would like to prepare their own brief document in respect of Wetland Atlas for the State of Maharashtra. If the State of Maharashtra does not propose to adopt the Wetland Atlas prepared by the Central Government, the Secretary, Department of Environment and the Secretary of Forest Department, State of Maharashtra to inform this Court the time frame within which the said brief document shall be prepared for the State of Maharashtra.*

*2. In the meantime, however, we deem it fit and proper to give a direction in respect of the areas which have been identified as Wetland Areas in the Wetland Atlas by the Central Government that no reclamation of land and any kind of construction shall be permitted without leave of this Court. The Secretary, Urban Development Department, Government of Maharashtra is directed to issue a circular*

*informing the direction given by this Court to all the Corporations and the Zilha Parishad. Stand over to 29<sup>th</sup> October, 2013”.*

4. On 19<sup>th</sup> March, 2014 this Court in PIL No.87 of 2013 passed the following order :

*“2. Pursuant to the directions given by this court the learned A.G.P. has submitted report in respect of certain areas. Perusal of the report indicates that there is rampant destruction of wetlands and land is reclaimed after systematic destruction of wetlands. We have seen photographs which are tendered by the petitioners which also clearly demonstrate that apart from destruction of wetlands, the land is reclaimed and illegal reclamation is being carried out by certain persons. As of today, no permanent machinery is set up by the State Government for the purpose of stopping destruction of wetlands. We are, therefore, of the opinion that it would be necessary to impose total ban on destruction and reclamation of wetlands which are described in the Atlas prepared by the Central Government. permission should be granted for destruction Hereinafter no and reclamation of wetlands and prompt action including lodging of FIR/complaint be taken. This action should be taken by the Collector, who is authority in respect of entire Revenue District and also by the Regional Officers of State Pollution Control Board, who have been delegated powers under section 20, 21, 23 of the Water (Prevention and Control of Pollution) Act, 1974. The steps should also be taken by these authorities and they should submit report about the steps taken by them in respect of reclamation of wetlands as indicated in the report submitted by Chief Conservator of Forests, Mangrove Cell, Mumbai.”*

5. On 16<sup>th</sup> December, 2019 this Court in Writ Petition No.303 of 2018 passed the following order :

“1. By an order dated 14<sup>th</sup> October, 2013 passed by this Court in PIL No.87 of 2013, directions were given to the Department of Environment and Secretary to the Forest Department, State of Maharashtra to decide whether they propose to adopt the Wetland Atlas prepared by the Central Government under Rules 6(2) and 6(3) of the Wetland Rules, 2010 or whether they would like to prepare their own document in respect of the Wetland Atlas for the State of Maharashtra.

2. Mr. Sanjay Baliram Sandanshiy, Scientist II Cum Under Secretary, has filed his Affidavit dated 12<sup>th</sup> December, 2019 setting out as follows :

“7. This Department vide GR dated 06.02.2018 has constituted Wetland Authority, under the Chairmanship of Hon’ble Minister of Environment. In view of the directions of the Hon’ble High Court, all District Collectors, are informed to prepare brief documents to submit before the wetland authority. On 27<sup>th</sup> August, 2019 State Wetland Authority reviewed the progress of the preparation of brief documents in respect of wetlands in State. Accordingly, all District Collectors are instructed to prepare brief documents within 15 days.”

3. The said statements made in the Affidavit are of no assistance to the Court. No particulars are provided as to what exactly is done from 14<sup>th</sup> October, 2013. No detailed particulars of the steps taken from 6<sup>th</sup> February, 2018, i.e. the date of the GR, are provided. This is so because hardly any steps are taken in the matter, which conduct is strongly deprecated. The fact remains that the orders passed by the Court are not complied with by the State Government since a very

*long time. The State Government is directed to prepare the brief document, if so interested, within a period of four weeks from today.*

*4. Stand over to 13<sup>th</sup> January, 2020, high on board.”*

6. On 13<sup>th</sup> January, 2020 this Court after reproducing the order dated 16<sup>th</sup> December, 2018 interalia recorded in brief the contents of the Affidavit of Mr. Sanjay Baliram Sandanshiv, Scientist II Cum Under Secretary, in paragraph 2 of the order which is reproduced hereunder :

*“2. Today, an Affidavit is filed by Shri. Sanjay Baliram Sandanshiv, Under Secretary, Environment Department, Government of Maharashtra, wherein he has stated as follows :-*

*(i) that pursuant to the directions of this Court dated 14<sup>th</sup> October, 2013, the Revenue and Forest Department constituted the Maharashtra State Wetland Committee chaired by the Chief Secretary vide GR dated 30<sup>th</sup> April, 2014 ;*

*(ii) that the Environment Department had instructed all District Collectors of 28 districts for preparation of brief documents vide letters dated 17<sup>th</sup> November 2015, 18<sup>th</sup> November 2015, 12<sup>th</sup> April 2016, 22<sup>nd</sup> July 2016, 11<sup>th</sup> August 2016, 3<sup>rd</sup> October 2016, 17<sup>th</sup> May 2018, 18<sup>th</sup> January 2019, 2<sup>nd</sup> May 2019, 17<sup>th</sup> May 2019 and 18<sup>th</sup> December 2019;*

*(iii) that the Environment Department constituted State Wetland Authority, Grievance Committee and Technical Committee vide G.R. dated 6<sup>th</sup> February, 2018 for scrutinizing the brief documents submitted by the concerned Districts ;*

*(iv) that on 19<sup>th</sup> December, 2019, the Environment Department brought to the notice of all Divisional Commissioners and District Collectors of the*

*State regarding directions given by this Court dated 16<sup>th</sup> December, 2019 and instructed them to submit brief documents of wetland area within 15 days time, failing which they will be solely responsible for the delay ;*

*(v) that again on 20<sup>th</sup> December, 2019, the Principal Secretary (Environment) vide D.O. letter instructed all Divisional Commissioners and all District Collectors to prepare brief documents of wetland area within 15 days time, failing which they will be solely responsible for the delay ;*

*(vi) that on 24<sup>th</sup> December, 2019 all concerned officers of the Konkan Division District Collector Offices remained present for further guidance and technical assistance for preparation of brief documents ;*

*(vii) that on 26<sup>th</sup> December, 2019 all Divisional Commissioners and all District Collectors were reminded for the preparation of brief documents of wetland in the light of this Court order dated 16<sup>th</sup> December, 2019 ;*

*(viii) that on 7<sup>th</sup> January 2020 all Divisional Commissioners and all District Collectors were requested by the Environment Department to send the progress report about the preparation of brief documents of wetland within two days in the light of the order dated 16<sup>th</sup> December, 2020 ;*

*(ix) that out of 36 Districts of State of Maharashtra, 2 Districts namely, Sindhudurg and Ratnagiri have completed brief documents and submitted online to Environment Department ;*

*(x) that in Parbhani and Nagpur, there are no wetlands.*

*(xi) that so far as Thane and Mumbai Suburban Districts are concerned, the work of wetland is already completed. However, due to some technical issues, the brief documents are not uploaded online.*

*(xii) that the Raigad and Palghar Districts shall prepare the brief documents within a period of 15 days ;*

*(xiii) that so far as balance 28 Districts are concerned, the District*

*Collectors are already informed to complete the process to prepare brief documents, failing which the concerned officer shall be solely responsible, for the delay.”*

In the said order, this Court after recording that the Additional Commissioners and Collectors have failed to comply with the orders passed by this Court and also the directions/reminders given pursuant thereto by the Environment Department, including the Principal Secretary (Environment), directed the Principal Secretary (Environment) to appear before the court on 15<sup>th</sup> January, 2020 at 11.00 a.m., and inform the Court about the action taken / proposed to be taken against the Divisional Commissioners and District Collectors for not complying with the directions of this Court more so because in the communication addressed by him to the Divisional Commissioners and District Collectors, he had already warned them that if they fail to submit the brief documents within the prescribed time, they will be solely responsible for the delay.

7. Today, Mr. Anil Diggikar, the Principal Secretary (Environment) is present in Court. Mr. Diggikar has placed before the Court an order dated 14<sup>th</sup> January, 2020 issued by the Chief Secretary, Govt. of Maharashtra, to all the Collectors and Divisional Commissioners, directing them to forthwith prepare and submit the brief documents of wetlands as per the directions of the Court, failing which necessary action will be taken against them for evading the orders of this Court. The Collectors and Divisional Commissioners shall therefore prepare and submit the brief documents

of wetland within a period of two weeks from today. A copy of this order shall be forthwith forwarded to all the Collectors and Divisional Commissioners.

8. Since the Under Secretary, Environment Department has tendered an Affidavit in Writ Petition No.303 of 2018 stating that in Parabhani, Nandurbar and Nagpur Districts, there are no wetlands, Mr. Zaman Ali, Advocate appearing for the Petitioner in PIL No.87 of 2013 referred to the district wise break up prepared by the Petitioner as per the National Wetland Atlas for Maharashtra and pointed out that :

(i) Nandurbar District has a total of 735 Wetlands (Item No.1, Chart at Annexure - A);

(ii) Nagpur District has a total of 1054 Wetlands (Item No.9, Chart at Annexure - A);

(iii) Parbhani District has a total of 276 Wetlands (Item No.17, Chart at Annexure - A);

Advocate Mr. Zaman Ali submitted that therefore, a stark difference is prima facie observed between the data submitted by the Under Secretary, Environment Department and the available scientific data on number of wetlands identified in Maharashtra by premier scientific agencies (SAC and MRSAC). He submitted that in view of the above, it is highly misleading and incorrect for the Under Secretary, Environment Department to submit on oath that there are no wetlands in Nandurbar, Nagpur and Parbhani Districts.

9. In view thereof, the Principal Secretary (Environment) who is present in Court, has agreed to look into the above grievance of the Petitioner and make his

submissions on the adjourned date. Also, copies of all brief documents prepared for all wetlands in the State of Maharashtra shall be supplied to the Petitioner so as to enable the Petitioner to verify whether brief documents of all wetlands as already identified under the National Wetlands Atlas – Maharashtra, are being prepared and in a proper manner.

10. Stand over to 29<sup>th</sup> January, 2020 first on board.

( B.P.COLABAWALLA, J. )

( S.J.KATHAWALLA, J. )

# जिल्हाधिकारी तथा जिल्हादंडाधिकारी यांचे कार्यालय, सिंधुदुर्ग

मुख्य प्रशासकीय इमारत, पहिला मजला, ओरोस-सिंधुदुर्गनगरी, ता.कुडाळ, जि.सिंधुदुर्ग, पिन - 416812

दुरध्वनी क्र. 02362-228856

**Annexure -7**

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क्रमांक-डेस्क/मशा/पाणथळ/तालुका/समिती/2018

दिनांक - 15.05.2018

- वाचले -**
- 1) वेटलँड (संवर्धन आणि व्यवस्थापन) नियम, 2010 व 2017
  - 2) शास्त्रज्ञ श्रेणी-1 तथा उप सचिव, पर्यावरण विभाग, मंत्रालय यांचेकडील पत्र क्र.बैठक-2018/प्र.क्र.19/तां.क.3, दिनांक 17.04.2018
  - 3) या कार्यालयाकडील आदेश क्र.डेस्क/मशा/पाणथळ/समिती/2018, दिनांक - 25.04.2018
  - 4) स्यमंतक, धामापूर यांचेकडील पत्र दिनांक 10.05.2018

**आदेश -**

वेटलँड (संवर्धन आणि व्यवस्थापन) नियम, 2010 नुसार वेटलँड जमिनीचे संवर्धन व संरक्षण करणेसाठी SAC अहमदाबाद यांनी LATITUDE-LONGITUDE द्वारे राज्यातील पाणथळ जागा निश्चित करणेत आलेल्या आहेत. "मोबाईल ॲप" द्वारे जिल्हातील एकूण 64 पाणथळ जागांची माहिती संकलित करणेची कार्यवाही विहित मुदतीत पुर्ण होणेसाठी प्रस्ताविकेतील अ.क्र.3 अन्वये जिल्हा स्तरीय समिती स्थापन करणेत आलेली आहे.

प्रस्ताविकेतील अ.क्र.4 अन्वये स्यमंतक धामापूर या संस्थेतील या जिल्ह्यात कार्यरत असलेले स्वयंसेवक हे वेटलँड जमिनीचे ब्रीफ डॉक्युमेंट तयार करणेस, तसेच वनस्पतिशास्त्रज्ञ प्राध्यापक डॉ.बाळकृष्ण गावडे व जिल्ह्याचे वन्यजीव वॉर्डन प्राध्यापक नागेश दप्तरदार हे पाणथळ क्षेत्रांचे ब्रीफ डॉक्युमेंटेशन कार्यासाठी सल्लागार म्हणून काम करणेस इच्छुक आहेत. जिल्ह्यातील एकूण 64 पाणथळ जागांची माहिती संकलित करणेची कार्यवाही विहित मुदतीत पुर्ण करणेसाठी खालील प्रमाणे तालुका स्तरीय समिती नियुक्त करणेत येत आहे.

## समिती सदस्य

1.	अध्यक्ष	तहसिलदार
2.	सदस्य	वनक्षेत्रपाल
3.	सदस्य	तालुका कृषी अधिकारी
4.	सदस्य	संबंधित तलाठी
5.	सदस्य	सोबतचे यादीत नमूद केलेप्रमाणे तालुका निहाय स्वयंसेवक
6.	सदस्य सचिव	नायब तहसिलदार तथा डि.बी.ए.

त्याअनुषंगाने समितीत समावेश उपरोक्त सदस्य यांनी याबाबत आढावा घेऊन पाणथळ जागांची माहिती विहित मुदतीत संकलित करून जिल्हा स्तरावर विहित मुदतीत सादर केली जाईल याची दक्षता घ्यावी.

सही/-xxx

(डॉ.दिलीप पांढरपट्टे)

जिल्हाधिकारी सिंधुदुर्ग

- प्रत -
- 1) मा.अप्पर मुख्य सचिव, पर्यावरण विभाग मंत्रालय, मुंबई यांजकडे माहितीसाठी सविनय सादर.
  - 2) शास्त्रज्ञ श्रेणी-1 तथा उपसचिव, पर्यावरण विभाग, मंत्रालय मुंबई यांजकडे माहितीसाठी सादर.
  - 3) उपविभागीय अधिकारी(सर्व) यांजकडे माहिती व आवश्यक त्या कार्यवाहीसाठी.
  - 4) तहसिलदार कणकवली/देवगड/वैभववाडी/कुडाळ/मालवण/दोडामार्ग/सावंतवाडी/वेंगुर्ला

2/- सर्व तहसिलदार यांनी तालुका स्तरीय समितीची पहिला सभा दिनांक 17.05.2018

रोजी आयोजित करून इतिवृत्त अहवाल या कार्यालयास सादर करावा.

स्थळ प्रतिवर मा.जिल्हाधिकारी महोदय

यांची स्वाक्षरी आहे.

8.8. Patil

जिल्हाधिकारी सिंधुदुर्ग करीता

Kramank-desk/mashaa/panthal/taluka/samite/2018

Date: 15/05/2018

- Read:** 1) Wetland (Protection & Conservation) Rule, 2010 and 2017  
2) Letter no. Baithak-2018/pr.kr.19/ta.k.3, Dated 17.04.2018 from Scientist class-1 and Deputy Secretary, Environment Department, Mantralaya  
3) Order of this office kr.desk/masha/panthal/samite/2018, Date – 25.04.2018  
4) Syamantak, Dhamapur letter dated 10.05.2018

**Order –**

For the purpose of protection and conservation of wetlands SAC, Ahmedabad has confirmed the wetlands in the state by Latitude and Longitude according to the Wetland (Protection & Conservation) Rule, 2010. A District Level Committee has been constituted under No. 3 in the preamble to complete the process of collecting information of 64 sites within the prescribed time frame.

As per No. 4 in the preamble, the volunteers of Symantak Dhamapur working in the district, are willing to prepare the wetland brief documentation of the wetland, and Dr. Balkrishna Gawde, Professor of Botany, and Dr. Nagesh Daftardar, the Wildlife Warden of the district, are willing to act as advisors for the wetland brief documentation work. A Taluka level committee is being appointed as follows to complete the process of collecting information of total 64 wetlands in the district within the prescribed time frame.

**Committee Members**

1	President	Tahsildar
2	Member	Range Forest Officer
3	Member	Taluka Agriculture Officer
4	Member	Respective Talathi
5	Member	Taluka wise volunteers as mentioned in the accompanying list
6	Member Secretary	Nayab Tahsildar and D.B.A

Accordingly, the above-mentioned members included in the committee should take care that the information of the wetlands is collected within the prescribed time frame and submitted within the prescribed time frame at the district level.

Signature/-xxx  
(Dr. Dilip Pandharpatte)  
District Collector Sindhudurg

- Copy – 1) Hon'ble Upper Chief Secretary, Environment Department Mantralay, Mumbai submission for information  
2) Scientist Class -1 and Deputy Secretary, Environment Department Mantralay, Mumbai submission for information  
3) Sub-Divisional Officer (ALL) submission for information and necessary actions  
4) Tahsildar Kankavali/Devgad/Vaibhavwadi/Kudal/Malvan/Dodamarg/Sawantwadi/Vengurla  
2/- All Tahsildar should hold the first meeting of the Taluka Level Committee on 17.05.2018 and submit the minutes report to this office.

**The spot copy is signed by the Hon'ble Collector**

**For District Collector Sindhudurg**