

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**WESTERN ZONE BENCH AT PUNE**  
**REVIEW APPLICATION NO. OF 2024**  
**IN**  
**ORIGINAL APPLICATION NO. 32 OF 2024**

**IN THE MATTER OF:**

ANUJ ABHAY DESHPANDE AND ANR.

...APPLICANTS

VERSUS

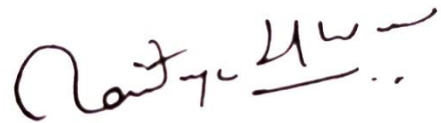
PUNE MUNICIPAL CORPORATION & ORS.

...RESPONDENTS

**VOLUME I**

(FOR INDEX PLEASE SEE INSIDE)

**FILED BY:**



**MAITREYA PRITHWIRAJ GHORPADE**

**ADVOCATE**

COUNSEL FOR THE APPLICANT

Mobile: 7024102546

Email: [maitreya.ghorpade@gmail.com](mailto:maitreya.ghorpade@gmail.com)

**Place: Pune**

**Date: 30.04.2024**

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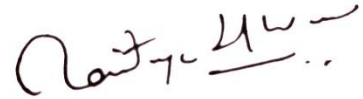
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THROUGH



**MAITREYA PRITHWIRAJ GHORPADE**

**ADVOCATE**

COUNSEL FOR THE APPLICANT

Mobile: 7024102546

Email: [maitreya.ghorpade@gmail.com](mailto:maitreya.ghorpade@gmail.com)

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**SYNOPSIS**

That the instant Review Application is being filed under Section 19 (4)(f) of the National Green Tribunal Act, 2010 r/w Rule 22 of the National Green Tribunal (Practice and Procedure) Rules, 2011 seeking Review of the order dated 22.02.2024 passed by this Hon'ble Tribunal in the above titled Original Application No. 32/2024(WZ) on the grounds of review as stipulated under Rule 1, Order XLVII of CPC, 1908.

The Review Applicant state that the said OA No. 32/2024(WZ) was filed seeking adjudication with respect to violations of the Environment (Protection) Act, 1986, and tremendous damage likely to be caused due to proposed cutting of trees on Hanuman Tekdi ('hill') due to construction of a water tank (hereinafter referred to as the 'impugned project') on Forest Land. The Applicant submits that this Hon'ble Tribunal has disposed of the said OA No. 32/2024(WZ) vide the impugned order dated 22.02.2024. However, the Review Applicant submits that there are patent errors apparent on the face of the record which make the impugned order liable to be reviewed by this Hon'ble Tribunal, viz.

- 1. Hon'ble Tribunal has relied on the submissions made by Respondent No. 1 Pune Municipal Corporation ('PMC') without any evidence submitted in support thereof;**

That the Hon'ble Supreme Court has interpreted the application of the 'Precautionary Principle' in India in the case of **Vellore Citizens Welfare Forum v. Union of India and Ors. 1996 (5) SCC 647** wherein the Apex Court has clearly stated the 'onus of proof' is on the actor or the developer/industrialist to show that their action is environmentally benign. Furthermore, as per Section 20 of the NGT Act, 2010, this Hon'ble Tribunal shall apply to Precautionary Principle while passing any order. However, the Applicant submits that this Hon'ble Tribunal has placed exclusive reliance on the submissions of the PMC and erred in allowing the PMC to proceed with the impugned project without verifying the claims made by the PMC regarding suitability of the present site.

**2. Incorrect order of Hon'ble Supreme Court quoted by this Hon'ble Tribunal in impugned Order dated 22.02.2024 in OA 32/2024(WZ);**

Furthermore, the Applicant submits that while recording its observations on the issue of site selection in order dated 22.02.2024, this Hon'ble Tribunal has stated as follows:

*"13. Since after having heard both the sides and perused the record, we find that when the matter was already considered by this Tribunal in O.A. No.46/2020, it is also apparent that there is no bar to construct a water tank for supply of potable water in reserved forest land as per the order of the Hon'ble Supreme Court dated 09.05.2008 passed in Writ Petition (Civil) No.202 of 1995 and I.A. No.826...etc., which has been referred by this Tribunal in paragraph Nos.26 and 27 of its judgment delivered in O.A. No.46/2020 (supra).*

However, the quoted order of the Hon'ble Supreme Court dated 9.05.2008 in Writ Petition (Civil) No.202 of 1995 does not contain any directions pertaining to bar on construction of water tank in reserved forest area whatsoever.

Thus, for all these reasons above mentioned, the impugned order dated 28.05.2021 ought to be reviewed.

### LIST OF DATES

Date	Description
2006-2007	Water tank constructed by the PMC which have been unused till today
24.05.2022	Approval by MoEF&CC for diversion of 0.7031 ha. Reserved forest land for construction of water reservoir in Sy. No. 262 at Village Bhamburda, Taluka Haveli, District Pune
17.12.2023	The Applicants held agitation at Balgandharv Chowk and were joined by many
10.01.2024	The Applicants noticed JCB Machines at the site
27.01.2024	The Applicants moved Original Application No. 32/2024(WZ) seeking adjudication with respect to violation of the Environment (Protection) Act, 1986 and tremendous damage which will be caused due to the proposed cutting of trees at Hanuman Tekdi.
8.02.2024	Vide order dated 8.02.2024 in the OA 32/2024(WZ), this Hon'ble Tribunal had specifically directed the PMC to provide information regarding the considerations made by the PMC in respect of site selection. Accordingly, this Hon'ble Tribunal had directed as follows:  <i>"3. Before admitting this Original Application, we direct respondent No.1 – PMC to file their reply giving the details and all facts related to this project by the next date, stating therein as to from which authorities' permissions were obtained and what consideration was made in this regard, particularly in respect of the site selection. A week's time is allowed for the same."</i>
22.02.2024	This Hon'ble Tribunal has disposed of the said OA No. 32/2024(WZ) vide the impugned order dated 22.02.2024. That this Hon'ble Tribunal

	<p>while disposing off the said OA No. 32/2024(WZ) has <i>inter alia</i> held as follows:</p> <p><i>"5. Copy of above compliances in tabular form has been served on the learned counsel for the applicants. It is stated by the learned counsel for the applicants that no proof in support of above compliances has been produced on record by respondent No.1-PMC, to which learned counsel for respondent No.1 states that he would file compilation in support of whatever has been submitted in the above tabular form today itself.</i></p> <p><i>...</i></p> <p><i>13. Since after having heard both the sides and perused the record, we find that when the matter was already considered by this Tribunal in O.A. No.46/2020, it is also apparent that there is no bar to construct a water tank for supply of potable water in reserved forest land as per the order of the Hon'ble Supreme Court dated 09.05.2008 passed in Writ Petition (Civil) No.202 of 1995 and I.A. No.826...etc., which has been referred by this Tribunal in paragraph Nos.26 and 27 of its judgment delivered in O.A. No.46/2020 (supra).</i></p> <p><i>14. Therefore, as far as objection regarding the site selection, raised by the applicants, it does not hold water. Looking to the fact that permission has been obtained from MoEF&amp;CC and Tree Authority for tree cutting, which are expert bodies in the field and if they have taken decision for allowing the project in question to go on, that cannot be assailed in the form of present proceeding. Therefore, we do not find fault with the decisions taken by the Authorities, nor those can be challenged in the present proceeding.</i></p> <p><i>15. The details, which have been given by respondent No.1-PMC about the steps which have been taken by them in pursuance of this Tribunal's order dated 02.12.2021 passed in O.A. No.46/2020, which have been quoted (in tabular form) hereinabove by us, appear to be satisfactory to us."</i></p>
1.05.2024	Hence, the present Review Application

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**REVIEW APPLICATION NO.    OF 2024**  
**IN**  
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**IN THE MATTER OF:**

**1. ANUJ ABHAY DESHPANDE**

6, Krushnali Apartments,  
2 Nav Rajasthan CHS, S.B. Road,  
Pune – 411016  
Ph: 9422314960 Email: anujdeshpande92@gmail.com

**2. SHARDUL ABHAY MHALGI**

41/a Hanuman Nagar,  
Sankalp Bungalow,  
S.B Road, Pune – 411016  
Ph: 9422523355 Email: shardulmhalgi@yahoo.co.in

**...APPLICANTS**

**VERSUS**

**1. THE COMMISSIONER**

Pune Municipal Corporation,  
Shivajinagar, Pune – 411005  
Ph: 25501000 Email: info@punecorporation.org.in

**2. THE SECRETARY**

Environment Department, State of Maharashtra,  
Mantralaya, Mumbai – 400032  
Ph: 022 2873845 Email: psec.env@maharashtra.gov.in

**...RESPONDENTS**



**APPLICATION FOR REVIEW UNDER S. 19 (4) (F) OF THE NATIONAL GREEN TRIBUNAL ACT, 2010 R/W RULE 22 OF THE NATIONAL GREEN TRIBUNAL (PRACTICE AND PROCEDURE) RULES, 2011**

TO,

THE HON'BLE CHAIRPERSON

AND MEMBERS OF THE NATIONAL GREEN TRIBUNAL

THE REVIEW APPLICANT

**MOST RESPECTFULLY SHOWETH:**

1. That the instant Review Application is being filed under Section 19 (4)(f) of the National Green Tribunal Act, 2010 r/w Rule 22 of the National Green Tribunal (Practice and Procedure) Rules, 2011 seeking Review of the order dated 22.02.2024 passed by this Hon'ble Tribunal in the above titled Original Application No. 32/2024(WZ) on the grounds of review as stipulated under Rule 1, Order XLVII of the Code of Civil Procedure, 1908. A copy of order dated 22.02.2024 passed by this Hon'ble Tribunal in the matter of *Anuj Abhay Deshpande and Ors. v. Pune Municipal Corporation and Ors.* in OA No. 32/2024 (WZ) is annexed and marked herewith as **ANNEXURE A-1.**
2. The Review Applicant state that the said OA No. 32/2024(WZ) was filed seeking adjudication with respect to violations of the Environment (Protection) Act, 1986, and tremendous damage likely to be caused due to proposed cutting of trees on Hanuman Tekdi ('hill') on Forest Land on Sy. 262, Village Bhamburda, Taluka Haveli, District Pune due to construction of a water tank (hereinafter referred to as the 'impugned project').
3. The Applicant submits that this Hon'ble Tribunal has disposed of the said OA No. 32/2024(WZ) vide the order dated 22.02.2024. That this Hon'ble Tribunal while disposing off the said OA No. 32/2024(WZ) has *inter alia* held as follows:

*"5. Copy of above compliances in tabular form has been served on the learned counsel for the applicants. It is stated by the learned counsel for the applicants that no proof in support of above compliances has been produced on record by respondent No.1-PMC, to which learned counsel for respondent No.1 states that he would file compilation in support of whatever has been submitted in the above tabular form today itself.*

...

*13. Since after having heard both the sides and perused the record, we find that when the matter was already considered by this Tribunal in O.A. No.46/2020, it is also apparent that there is no bar to construct a water tank for supply of potable water in reserved forest land as per the order of the Hon'ble Supreme Court dated 09.05.2008 passed in Writ Petition (Civil) No.202 of 1995 and I.A. No.826...etc., which has been referred by this Tribunal in paragraph Nos.26 and 27 of its judgment delivered in O.A. No.46/2020 (supra).*

*14. Therefore, as far as objection regarding the site selection, raised by the applicants, it does not hold water. Looking to the fact that permission has been obtained from MoEF&CC and Tree Authority for tree cutting, which are expert bodies in the field and if they have taken decision for allowing the project in question to go on, that cannot be assailed in the form of present proceeding. Therefore, we do not find fault with the decisions taken by the Authorities, nor those can be challenged in the present proceeding.*

*15. The details, which have been given by respondent No.1-PMC about the steps which have been taken by them in pursuance of this Tribunal's order dated 02.12.2021 passed in O.A. No.46/2020, which have been quoted (in tabular form) hereinabove by us, appear to be satisfactory to us."*

4. That the Review Applicant submits that there are patent errors apparent on the face of the record which make the impugned order liable to be reviewed by this Hon'ble Tribunal.
5. It is submitted that Rule 1 of Order XLVII of the Code of Civil Procedure, 1908 states as follows:

*"1. Application for review of judgement*

*(1) Any person considering himself aggrieved-*

*(a) by a decree or order from which an appeal is allowed, but from no appeal has been preferred,*

*(b) by a decree or order from which no appeal is allowed, or*

*(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgement to the Court which passed the decree or made the order."*

6. That the Code of Civil Procedure, 1908 thus states that 'mistake or error apparent on the face of the record or any other sufficient reason' are valid grounds for review of the order passed. Therefore, the Review Applicant would now like to highlight the specific grounds which makes the impugned order dated 22.02.2024 liable to be reviewed.

#### **ERRORS APPARENT ON THE FACE OF THE RECORD**

#### **I. Hon'ble Tribunal has relied on the submissions made by Respondent No. 1 Pune Municipal Corporation ('PMC') without any evidence submitted in support thereof**

##### ***I.1. Alleged Compliance of Forest Clearance Conditions by PMC***

7. The Applicant submits that permission to divert forest land for construction of the impugned project was granted to Respondent No.1 PMC by the Forest Department. Accordingly, the PMC has submitted in tabular form the various compliances made in respect of conditions imposed vide the said permission. That such table has been reproduced in the impugned order as on Pgs. 3-5.
8. However, Applicant submits that this Hon'ble Tribunal has erred in accepting the details of compliance of such conditions imposed by the Forest Clearance by the PMC without any evidence being submitted on record by the PMC that clearly establishes any compliance whatsoever.

9. It is further submitted that such non-submission of evidence on record by the PMC was put to the notice of this Hon'ble Tribunal by the Applicants, as has been observed in Paragraph 5 of the impugned order, wherein this Hon'ble Tribunal has stated as follows:

*"5. Copy of above compliances in tabular form has been served on the learned counsel for the applicants. It is stated by the learned counsel for the applicants that no proof in support of above compliances has been produced on record by respondent No.1-PMC, to which learned counsel for respondent No.1 states that he would file compilation in support of whatever has been submitted in the above tabular form today itself."*

10. Although assurance of submission of such evidence was made by the PMC, no time was granted for such by this Hon'ble Tribunal, and the matter was accordingly disposed of vide the same impugned order.

11. That such non-submission of evidence by the PMC is especially egregious given the fact that the Applicants in the said Original Application No. 32/2024(WZ) had explicitly stated that no plantation activities have been carried out by PMC as compensation for trees felled during construction of the impugned project. That such has been stated by Applicants, as on Pg 10, Para (I) of the said Original Application. A copy of the Memorandum of Original Application No. 32/2024(WZ) titled *Abhay Anuj Deshpande and Ors. v. Pune Municipal Corporation and Anr.* is annexed and marked herewith as **ANNEXURE A-2.**

12. Thus, it is patently evident that this Hon'ble Tribunal has erred in passing a final order in the said Original Application prior to submission of evidence by PMC. That such a decision is accordingly opposed to the principles of natural justice, as the Applicants had no opportunity to rebut or contest the alleged compliance of conditions by PMC through verification of evidence.

### ***1.2 Hon'ble Tribunal has erred in not applying Precautionary Principle***

13. It is further submitted that the vide order dated 8.02.2024 in the present OA 32/2024(WZ), this Hon'ble Tribunal had specifically directed the PMC to provide information regarding the considerations made by the PMC in respect of site selection. Accordingly, this Hon'ble Tribunal had directed as follows:

*"3. Before admitting this Original Application, we direct respondent No.1 – PMC to file their reply giving the details and all facts related to this project by the next date, stating therein as to from which authorities' permissions were obtained and what consideration was made in this regard, particularly in respect of the site selection. A week's time is allowed for the same."*

A copy of order dated 8.02.2024 in OA 32/2024(WZ) is annexed and marked herewith as **ANNEXURE A-3.**

14. Accordingly, the PMC has filed Affidavit dated 16.02.2024, wherein certain submissions in pursuance of the above-quoted directions were made by the PMC. That such submissions are contained in Paragraph 5(h) to 5(j), Pgs. 55-56, which are reproduced as follows:

*"h. The construction of Water Storage Tanks at Gut No. 262, Fergusson College Hill will save a lot of energy consumption that would be required for direct Water Distribution through pipelines spread over about 8.5 sq. km. area within Pune city as Hill has a height and therefore there will be benefit of gravitation force.  
i. Engineering analysis has been carried out satisfying the water demand of population from 2022 to 2047 and accordingly the highest location is selected to distribute water by gravity.  
j. There is no other alternative piece of land suitable to construct these water reservoirs in order to cater water in the water zones in the vicinity of this hill. The high altitude topographical position will help water distribution under gravity. Pumping of around 18.5 million litres of water per day over 8.5 sq. km area, instead of building water tanks on hills will have a larger impact on environment due to huge power consumption."*

A copy of Affidavit dated 16.02.2024 filed by PMC in OA 32/2024(WZ) is annexed and marked herewith as **ANNEXURE A-4.**

15. It is stated that the above-mentioned submissions of the PMC have not been supported by any scientific assessment or comparative analysis detailing studies which measure the total energy required to pump 18.5 million litres of water per day via electric pumps versus total energy saved by utilizing gravitational force of the hills, while factoring in the total ecological cost of building the impugned project by felling of trees and diverting forest land.
16. Furthermore, the PMC has made vague assertions regarding reduction in power consumption, without revealing the fact that pumping of water will be required to be done even if the impugned project is situated on a hill, as it is not possible to exclusively utilize the gravitational force to supply 18.5 million litres of water per day over an area of 8.5 sq. kms.
17. That the Hon'ble Supreme Court has interpreting upon the application of the 'Precautionary Principle' in India in the case of **Vellore Citizens Welfare Forum v. Union of India and Ors. 1996 (5) SCC 647** wherein the Apex Court has clearly stated the 'onus of proof' is on the actor or the developer/industrialist to show that their action is environmentally benign.
18. That as per Section 20 of the National Green Tribunal Act, 2010, this Hon'ble Tribunal shall apply to Precautionary Principle while passing any order. However, the Applicant submits that this Hon'ble Tribunal has placed exclusive reliance on the submissions of the PMC and erred in allowing the PMC to proceed with the impugned project without assessing and verifying the claims made by the PMC regarding suitability of the present site.

19. Accordingly, the Applicant submits that this Hon'ble Tribunal has erred in not applying the said Precautionary Principle by ensuring that the PMC discharges their onus of proof and establishes their actions are environmentally benign.

## **II. Incorrect order of Hon'ble Supreme Court quoted**

20. Furthermore, the Applicant submits that while recording its observations on the issue of site selection in the impugned order dated 22.02.2024, this Hon'ble Tribunal has stated as follows:

*"13. Since after having heard both the sides and perused the record, we find that when the matter was already considered by this Tribunal in O.A. No.46/2020, it is also apparent that there is no bar to construct a water tank for supply of potable water in reserved forest land as per the order of the Hon'ble Supreme Court dated 09.05.2008 passed in Writ Petition (Civil) No.202 of 1995 and I.A. No.826...etc., which has been referred by this Tribunal in paragraph Nos.26 and 27 of its judgment delivered in O.A. No.46/2020 (supra).*

*14. Therefore, as far as objection regarding the site selection, raised by the applicants, it does not hold water..."*

21. However, the quoted order of the Hon'ble Supreme Court dated 9.05.2008 in Writ Petition (Civil) No.202 of 1995 does not contain any directions pertaining to bar on construction of water tank in reserved forest area whatsoever. A copy of the order of the Hon'ble Supreme Court dated 9.05.2008 in Writ Petition (Civil) No.202 of 1995 is annexed and marked herewith as **ANNEXURE A-5**.

22. Thus, for all these reasons above mentioned, the impugned order dated 22.02.2024 ought to be reviewed.

## **GROUND**

That the present Review Application is being filed on the following grounds amongst others that the Applicant may take up during the time of hearing:

A. Because as per Section 19 (4) (f) of the National Green Tribunal Act, 2010, this Hon'ble Tribunal has been vested with the powers of a civil court under

CPC, 1908, while trying a review Application seeking review of its decision.

The present Application has been filed seeking review of the order dated 22.02.2024 in OA 32/2024(WZ);

B. Because as per Section 19 (4) (f) of the National Green Tribunal Act, 2010 R/W Rule 22 of the National Green Tribunal (Practice and Procedure) Rules, 2011 a review Application can be filed within 30 days of the date of receipt of the order sought to be reviewed. That the impugned order was uploaded to the website of the National Green Tribunal as on 2.04.2024. A copy of the screenshot of the website of the National Green Tribunal detailing date of upload of impugned order is annexed and marked herewith as **ANNEXURE A-6.**

C. Because the grounds for review of an order has been enumerated under Rule 1 of the Order XLVII of the Code of Civil Procedure, 1908. In this regard, the Hon'ble Supreme Court has held as following regarding scope of review jurisdiction in the matter of **Kamlesh Verma v. Mayawati**, reported in **(2013) 8 SCC 320** :

*"20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:*

*20.1. When the review will be maintainable:*

*(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;*

*(ii) Mistake or error apparent on the face of the record;*

*(iii) Any other sufficient reason.*

*The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur*



*Manganese & Iron Ores Ltd. [(2013) 8 SCC 337 : JT (2013) 8 SC 275]*”

- D. Because this Hon'ble Tribunal has erred in accepting the details of compliance of such conditions imposed by the Forest Clearance by the PMC without any evidence being submitted on record by the PMC that clearly establishes any compliance whatsoever;
- E. Because non-submission of evidence by the PMC is especially egregious given the fact that the Applicants in the said Original Application No. 32/2024(WZ) had explicitly stated that no plantation activities have been carried out by PMC as compensation for trees felled during construction of the impugned project;
- F. Because submissions of the PMC made in Affidavit dated 16.02.2024 have not been supported by any scientific assessment or analysis detailing studies which measure the total energy required to pump 18.5 million litres of water per day via electric pumps versus total energy saved by utilizing gravitational force of the hills, while factoring in the total ecological cost of building the impugned project by felling of trees and diverting forest land;
- G. Because this Hon'ble Tribunal has erred in placing exclusive reliance on the submissions of the PMC and not assessing the claims made by the PMC;
- H. Because the Hon'ble Supreme Court has interpreting upon the application of the 'Precautionary Principle' in India in the case of **Vellore Citizens Welfare Forum v. Union of India and Ors. 1996 (5) SCC 647** wherein the Apex Court has clearly stated the 'onus of proof' is on the actor or the developer/industrialist to show that their action is environmentally benign, and accordingly observed as follows:

*"The "Precautionary Principle" - in the context of the municipal law - means.*

*(i) Environment measures - by the State Government and the statutory Authorities must anticipate, prevent' and attack the causes of environmental degradation.*

*(ii) Where there are threats of serious and irreversible damage lack of scientific certainty should not be used as the reason for postponing, measures to prevent environmental degradation.*

*(iii)The "Onus of proof" is on the actor or the developer/industrial to show that his action is environmentally benign."*

A copy of the order of the Hon'ble Supreme Court in **Vellore Citizens Welfare Forum v. Union of India and Ors. 1996 (5) SCC 647** is annexed and marked herewith as **ANNEXURE A-7**.

- I. Because order of the Hon'ble Supreme Court dated 9.05.2008 in Writ Petition (Civil) No.202 of 1995 does not contain any directions pertaining to bar on construction of water tank in reserved forest area whatsoever and is incorrectly quoted by this Hon'ble Tribunal

#### **LIMITATION**

That the present Review Application is being filed against the order dated 22.02.2024 in OA 32/2024(WZ). That the said order has been uploaded to the website of the NGT on 2.04.2024. Accordingly, the present Review Application is within 30 days of the receipt of the order, and therefore within the prescribed limitation period as per Rule 22 of the NGT Rules, 2011.

#### **PRAYER**

In light of the above facts and circumstances, it is most respectfully prayed this Hon'ble Tribunal may be pleased to pass the following orders:

- A. Review the impugned order dated 22.02.2024 in OA 32/2024(WZ);
- B. Direct Respondent No. 1 to place on record scientific assessment carried out in support of site selection made for impugned project;

Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

*Adeshpande*

APPLICANT NO. 1

*Sumali*

APPLICANT NO. 2

THROUGH

*Maitreya Ghorade*

**MAITREYA PRITHWIRAJ GHORPADE**

**ADVOCATE**

COUNSEL FOR THE APPLICANT

Mobile: 7024102546

Email: [maitreya.ghorade@gmail.com](mailto:maitreya.ghorade@gmail.com)

**VERIFICATION**

I, Anuj Abhay Deshpande, aged about 32 years, R/o 6 Krushnali Apartment, 2 Nav Rajasthan CHS, SB Road, Pune 411016 do hereby verify that the contents of the present Review Application abovementioned are true to my personal knowledge and nothing material has been concealed therefrom.

Date: 30-04-<sup>2024</sup>~~2024~~

Place: PUNE

*Adeshpande*

APPLICANT NO.1

**VERIFICATION**

I, Shardul Abhay Mhalgi, aged about 39 years, R/o 41/a Hanuman Nagar, Sankalp Bungalow, SB Road, Pune – 411016 do hereby verify that the contents of the present Review Application abovementioned are true to my personal knowledge and nothing material has been concealed therefrom.

**Date:**

**Place:** 30/4/2024  
Pune.



**APPLICANT NO. 2**

30/4/2024



BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH AT PUNE  
REVIEW APPLICATION NO. OF 2024  
IN  
ORIGINAL APPLICATION NO. 32 OF 2024

**IN THE MATTER OF:**

ANUJ ABHAY DESHPANDE AND ANR. ...APPLICANTS

VERSUS

PUNE MUNICIPAL CORPORATION & ANR. ...RESPONDENTS

**AFFIDAVIT**

I, Anuj Abhay Deshpande, aged about 32 years, R/o 6 Krushnali Apartment, 2 Nav Rajasthan CHS, SB Road, Pune 411016 do hereby verify that the contents of the present Review Application abovementioned are true to my personal knowledge and nothing material has been concealed therefrom.

*zdeshpande*

1. That I am the Applicant in the above titled Review Application and am conversant with the facts and circumstances described in the present case and as such, I am competent to swear this affidavit.
2. That the contents of the accompanying Application are true and correct and nothing material has been concealed therefrom.

*zdeshpande*

**DEPONENT**

**VERIFICATION**

Verified on this 30 of April 2024 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom.



**NOTED & REGISTERED**  
**AT.SR.NO.66/2024**

*30/04/2024*

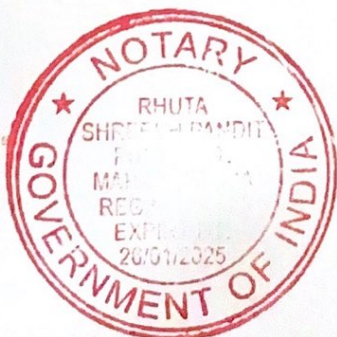
Id Verified and Oath Administered.  
Affiant Identified by Adv. *Maitreya Gharpade*  
Whom I Personally Know

*Madhvi*

*zdeshpande*

**DEPONENT BEFORE ME**

*Rhuta*  
**RHUTA SHREESH PANDIT**  
ADVOCATE & NOTARY  
GOVERNMENT OF INDIA  
**30 APR 2024**



Item No.1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (With Hybrid Option)]

**ORIGINAL APPLICATION NO.32 OF 2024 (WZ)  
WITH  
I.A.NO.38/2024 IN O.A. NO.32/2024**

Anuj Abhay Deshpande &amp; Ors.

.... Applicants

Versus

Pune Municipal Corporation &amp; Ors.

.... Respondents

Date of hearing : 22.02.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicants : Ms. Supriya Dangare, Advocate

Respondents : Mr. Rahul Garg, Advocate for R-1 with Mr. Rajesh Bhutkar,  
Dy. Engineer, Water Supply Department, PMC**ORDER**

1. In compliance with our previous order dated 19.02.2024, the applicants have filed rejoinder to the reply submitted by respondent No.1 – PMC.

2. From the side of respondent No.1, it was required at the time of earlier hearing that the learned counsel for respondent No.1 may point out as to what steps were taken by respondent No.1 in compliance with the judgment and order of this Tribunal dated 02.12.2021 passed in Original Application No.46 of 2020 (Dr. Sushma Date and two others Vs. Pune Municipal Corporation and five others), wherein following was held :

*“33. In the light of the recent decision and more particularly, a larger Bench of Hon’ble Supreme Court of India in a decision reported in **2011(1) SCC 744** (cited supra) distinguishing the earlier Judgment reported in **1997(2) SCC 267**, **“it cannot be said that the construction of water tanks/allied activities on the lands***

***in Law College hill and Fergusson College hill on the part of the 1<sup>st</sup> Respondent cannot be faulted.*** It is also to be noted at this juncture that as per a stand of the 3<sup>rd</sup> Respondent, a proposal for diversion of 'forest land' made by the 1<sup>st</sup> Respondent-Corporation, is also pending consideration and that apart, the 6<sup>th</sup> Respondent has also granted in-principle approval for the diversion for the 'reserved forest land' in Survey No.262 Bhambudra village in respect of 0.0571 ha identified as 'forest land' at Pashan and Sutarwadi area, subject to many very conditions and also made it clear that legal status of the 'forest land' shall remain unchanged.

34. However, taking into consideration facts and circumstances, the Respondent Nos.2, 3 and 6, shall cause periodical as well as surprise inspection and if any infractions/violations are noted, shall take immediate, necessary and appropriate actions on accordance with law against the concerned violators. The said Respondents shall also ensure that the trees claimed to have been planted by way of afforestation, are reared and maintained properly so that adequate green/forest cover is created.

35. In the result, the Original Application is dismissed subject to above observations. However, in the circumstances of the case, there shall be no order as to costs.”

3. The aforesaid direction was issued by this Tribunal because in that Original Application, the applicants, who were residents of Deccan Gymkhana/Erandwane areas of the city of Pune and invoking jurisdiction of this Tribunal, raising the issue of illegal construction activities undertaken by respondent No.1 – PMC through its contractor. By referring the illegal activities, they had alleged that illegal construction of water tanks on three forest lands was being done, which included Fergusson College Hill (Gat No.262) also, regarding which the present Original Application has been filed. The matter was thoroughly considered by this Bench and thereafter, the above quoted order was passed.

4. The learned counsel for respondent No.1 has submitted, in tabular form, the compliances done in respect of the said order dated 02.12.2021, which is as follows:

Pune Municipal Corporation			
Name of Work = Construction of water tanks at Fergusson Hill, village Bhamburda S.No. 262.			
Subject :- Compliance of Conditions stipulated in permission given by Forest Dept.			
Sr.No.	Condition relevant to Pune Municipal Corporation	Compliance	Remarks
1	Legal status of forest land shall remain unchanged	The status has been maintained as the ownership of the land is still with Forest Dept.	Condition mentioned in letter of MOEF & CC vide No. FC-1/MH-175/2021-NGP/8543 dated 25.8.2021
2	<u>Compensatory afforestation</u> a. Compensatory afforestation shall be taken up by the Forest Department over 1.00 ha degraded forest land in Gut No. 425 at Village- Vadgaon Shinde, Taluka- Haveli, District- Pune at the cost of the User Agency. As far as possible, a mixture of local indigenous species along with 10% RET species of Pune District shall be planted and monoculture of any species may be avoided.	As per the demand note from forest dept PMC has deposited amount of Rs. 7,30,053/- towards compensatory afforestation at Gut No. 425 at village Vadgaon Shinde Tal Haveli Dist Pune on 1 ha. Of degraded forest area @ 1000 plants per ha.	Condition mentioned in letter of MOEF & CC vide No. FC-1/MH-175/2021-NGP/8543 dated 25.8.2021
3	iii. The cost of compensatory afforestation at the prevailing wage rates as per compensatory afforestation scheme and the cost of survey, demarcation and erection of permanent pillars if required on the CA land shall be deposited in advance with the The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years;		Condition mentioned in letter of MOEF & CC vide No. FC-1/MH-175/2021-NGP/8543 dated 25.8.2021
4	a. The State Government shall charge the Net Present Value (NPV) for the 0.7031 The Seste Gea. to be diverted under this proposal from the User Agency as per the orders of the Hon'ble Supreme Court 2008 India dated 30/10/2002 82003, 28/03/2008, 24/04/2008 09/05 by the vide in WP C No. 202/1995 and as per the guidelines issued by the Ministry vide letters No 5-1/1998-FC (PLII) dated 18/09/2003, as well as letter No. 5-2/2006-FC dated 03/10/2006 and 5-3/2007-FC dated 05/02/2009 in this regard;  b. Additional amount of the NPV of the diverted forest land, if any, becoming due after finalization of the same by the Hon'ble Supreme Court of India on receipt of the report from the Expert Committee, shall be charged by the State Government from the User Agency. The User Agency shall furnish an undertaking to this effect;	As per the demand note from forest dept PMC has deposited amount of Rs. 4,40,141/- plus Rs. 1,70,272/- towards NPV	Condition mentioned in letter of MOEF & CC vide No. FC-1/MH-175/2021-NGP/8543 dated 25.8.2021
5	User agency shall restrict the felling of trees to minimum number in the diverted forest land and the trees shall be felled under the strict supervision of the State Forest Department and the cost of felling of trees shall be deposited by the User Agency with the State Forest Department. Further, maximum number of trees below 60 cm girth shall be translocated by State Forest Department at the cost of User Agency;	As per the demand note from forest dept PMC has deposited amount of Rs. 54,480.79 towards cutting of the trees. PMC has taken the permission of tree authority of PMC, to cut the within the construction area and will be cut in supervision of forest dept.	Condition mentioned in letter of MOEF & CC vide No. FC-1/MH-175/2021-NGP/8543 dated 25.8.2021
6	vi. All the funds received from the user agency under the project shall be transferred/ deposited to CAMPA fund only through e-portal ( <a href="https://pariveshaic.in/">https://pariveshaic.in/</a> );	Conditions fulfilled by Pune Municipal Corporation.	Condition mentioned in letter of MOEF & CC vide No. FC-1/MH-175/2021-NGP/8543 dated 25.8.2021



	vii. The complete compliance of the FRA, 2006 shall be ensured by way of prescribed certificate from the concerned District Collector;		
7	ix. To improve the Forest/ Tree cover and to reduce pollution, as mandated in National Forest Policy, 1988 and Environmental (Protection) Act, 1986 respectively, the User Agency shall develop a separate nursery at one or more places to raise at least 1000 seedlings of forestry species along with bamboo, fruit bearing, medicinal, ornamental and indigeness/local every year. At least 50% of seedlings shall be planted by User Agency in the vicinity of project area including forest area and for hand holding with local people residing in vicinity of proposed area, User Agency shall voluntary distribute remaining 50% of seedlings to them free of cost.	The contracting company M/s L&T has submitted their report of plantation of 54750 saplings in the vicinity of project area along with purchase invoices of saplings from local nursery and photographs of plantations vide their letter no. LTCD/PUNE-SR/WET/WSD/RR/2020-21/1012 dated 19.9.2020	Condition mentioned in letter of MOEF & CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021
8	Sped regulating signage will be erected Protected Areas/ Forest Areas; along the road at regular intervals in the protected area of permanent pillars if required on the CA land shall be deposited in advance with the The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years;	As per the demand note from forest dept PMC has deposited amount of Rs. 11,000/- towards Compensatory afforestation After completion of construction activities PMC will carry out this activity. PMC has submitted the undertaking to forest Dept.	Condition mentioned in letter of MOEF & CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021
9	xii. The pipeline shall be laid down 1.5 meter below the ground and after laying down of pipe line the ground will be leveled;	This will be followed at the time of laying pipelines. PMC has submitted the undertaking to forest Dept.	Condition mentioned in letter of MOEF & CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021
10	xiii. User Agency shall obtain Environmental Clearance as per the provisions of the Environmental (Protection) Act, 1986, if applicable;	NA as this is public infrastructure of water supply project	Condition mentioned in letter of MOEF & CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021
11	xiv. The layout plan of the proposal shall not be changed without prior approval of Central Government;  xv. No labour camp shall be established on the forest land;	There will be NO change in location of the project site. Labour camp will not be allowed to establish at construction site. PMC has submitted the undertaking to forest Dept.	Condition mentioned in letter of MOEF & CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021
12	xvi. Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State Forest Department or the Forest Development Corporation or any other legal source of alternate fuel;	NA PMC has submitted the undertaking to forest Dept.	Condition mentioned in letter of MOEF & CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021
13	xvii. The boundary of the diverted forest land shall be suitably demarcated on ground at the project cost as per the directions of the concerned Divisional Forest Officer.	PMC has demarcated the boundary of the diverted forest land according to the GPS coordinates of the proposal before construction activity. PMC has submitted the undertaking to forest Dept.	Condition mentioned in letter of MOEF & CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021

14	<p>xviii. No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work;</p> <p>xix. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less;</p> <p>xx. The forest land shall not be used for any purpose other than that specified in the project proposal;</p> <p>xxi. The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt. of India;</p> <p>xxii. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&amp;CC Guideline F. No. 11- 42/2017-FC dt 29/01/2018;</p> <p>xxiii. Any other condition that the Ministry of Environment, Forests &amp; Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests &amp; wildlife;</p> <p>xxiv. The compliance report shall be uploaded on e-portal (<a href="https://parivesh.nic.in/">https://parivesh.nic.in/</a>);</p>	<p>The compliance report has been approved by the Addl. Principal Chief Conservator of Forest &amp; Nodal officer vide letter No. desk no. 17/Noctd/Punq/ID-12764(19)/191/2022-23 dated 25.4.2022 and uploaded on e-portal.</p>	<p>Condition mentioned in letter of MOEF &amp; CC vide No. FC-I/MH-175/2021-NGP/8543 dated 25.8.2021</p>
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5. Copy of above compliances in tabular form has been served on the learned counsel for the applicants. It is stated by the learned counsel for the applicants that no proof in support of above compliances has been produced on record by respondent No.1-PMC, to which learned counsel for respondent No.1 states that he would file compilation in support of whatever has been submitted in the above tabular form today itself.

6. From the side of the applicants, amendment application has also been moved today, which has still not been numbered because the same is e-filed wrongly in 'document section' and not in appropriate section, but even then, we take it for consideration. By this amendment application, it is prayed that following amendment in the prayer clause may be permitted:

*“d) The Respondent No.1 may kindly be directed to constitute a cell for the discussion with the stake holders and redressal of their grievances.*

e) *The Applicants alternatively pray that if this Hon'ble Tribunal considers it appropriate for the Respondent No.1 to go ahead with the project, the Respondent No.1 may kindly be directed to specify and adopt environment friendly green mechanism for carrying out the project in consultation with the experts in the field.*

f) *In alternative the Respondent No.1 may be directed to assign creation and maintenance of green cover by way of restitution and restoration to a company under the Corporate Social Responsibility scheme which Respondent No.1 would periodically supervise and publish report of the same in the public domain."*

7. Besides above, pleadings are also sought to be incorporated in the Original Application in the form of addition of paragraph Nos.7(a), 7(b), 7(c), 7(d), 7(e) and 7(f). When enquired from the learned counsel for respondent No.1 as to whether respondent No.1 would like to file objection against the same, he argued that the matter is at final stage and by applying constructive *res judicata*, these amendments should not be allowed because this issue has already been decided by this Tribunal in O.A. No.46 of 2020 (Dr. Sushma Date and others Vs. Pune Municipal Corporation and others).

8. We find from the present amendment sought to be incorporated in the Original Application that additional reliefs are prayed to be included to the effect that a direction be issued to respondent No.1-PMC to constitute a cell for the discussion with the stake holders and for redressal of their grievances; if this Tribunal considers it appropriate for respondent No.1 to go ahead with the project, respondent No.1 be directed to specify and adopt environment friendly green mechanism for carrying out the project in consultation with the experts in the field and respondent No.1 be directed to assign creation and maintenance of green cover and it should be done by way of restitution. This work of setting up of green cover should be given to a private company, who be ordered to

perform the same under the Corporate Social Responsibility (CSR) Scheme and that respondent No.1 be directed to periodically supervise the same. Though the above amendment application (I.A.) is being opposed by the learned counsel for respondent No.1, we deem it appropriate to allow the same. The amended copy of O.A. shall be filed today.

9. The present Original Application has been filed with the prayer that respondent No.1 be directed to change the location of the construction of water tanks considering the environmental damage and direction be issued to respondent No.1 to stop the work of the construction forthwith.

10. In the body of the Original Application it is submitted that the applicants, who are residents of Pune and regularly visit Fergusson College hill Gat No.262 of village Bhamburda, Taluka Haveli, District Pune, found that construction activity of water tanks was undertaken by respondent No.1-PMC. There were already two water tanks existing, measuring approximately 150 mtrs x 80 mtrs and 60 mtrs x 70 mtrs, respectively, which were constructed in 2006-2007. These water tanks were never in use till date since their inception. The portion of land which has already been excavated for the existing water tanks can be utilized for the construction which is being undertaken by respondent No.1. It appears that respondent No.1 has started construction of these water tanks considering the alleged additional requirement of water for the city of Pune, which is just adjacent to the old water tanks. It is also stated that while earlier old water tanks were constructed, large number of trees were felled and that now construction, which is going to be undertaken, will add to the damage of environment. Further it is mentioned that the portion of land on which respondent No.1 is proposing construction of water tanks is admittedly a Reserve Forest. Respondent No.1 under the "Equitable Water Supply Project" has started

construction of 82 new water tanks in the city and the said task is entrusted to PMC-Water Supply Department and for this, respondent No.1 has engaged services of M/s Studio Galli Ingegneri to study the existing water supply system, storage and prepare a detailed project report to cater the water requirement of the city of Pune considering the projected population till the year 2047. Respondent No.1 has obtained in-principle clearance and final approval from the MoEF&CC on 24.05.2022. Respondent No.1 has also obtained necessary permission for tree cutting from the Tree Authority. It is further submitted that the issue was earlier raised before this Tribunal in O.A. No.46/2020 relating to illegal construction activities by respondent No.1-PMC, which was disposed of by judgment and order dated 02.12.2021, copy of which is annexed as Annexure-B. According to the applicants, the present application is being filed under 'Precautionary Principle' and although this Tribunal has considered the issue earlier, the present application is different on the following points:

- “(i) By the present application, the applicant is not challenging the construction activity to be 'non forest activity' in the forest land.*
- (ii) The applicants, in the present application, are not contending that the construction of the water tank is illegal because the same has been adjudicated by this Tribunal in O.A. No.46/2020.”*

But it is clarified by the applicants that they have approached this Tribunal with respect to the following issues:

- “(i) The applicants are raising the issue of site selection.*
- (ii) The applicants are strongly objecting the tree cutting.*
- (iii) The fundamental right to have potable water cannot supersede the fundamental right to have healthy and clean environment.*

11. We find that whatever prayers have been made in the present Original Application alongwith the prayers stated in the amendment application, sought to be added in the original application, are nothing but more or less the same which had already been considered by this Tribunal in O.A. No.46/2020 (Dr. Sushma Date and others Vs. Pune Municipal Corporation and others) by judgment dated 02.12.2021, operative part of which has already been quoted by us above.

12. It would have been better for the applicants to seek execution of the said order passed by this Tribunal on 02.12.2021 instead of filing fresh Original Application. Be that as it may, by the amended prayer (e ), it is prayed that if this Tribunal considers it appropriate for the respondent No.1 to go ahead with the project, the respondent No.1 may be directed to specify and adopt environment friendly green mechanism for carrying out the project in consultation with the experts in the field. That means that this relief itself shows that the applicants are in agreement that the said project should be allowed to go on with the said rider which has been prayed in the amended prayer.

13. Since after having heard both the sides and perused the record, we find that when the matter was already considered by this Tribunal in O.A. No.46/2020, it is also apparent that there is no bar to construct a water tank for supply of potable water in reserved forest land as per the order of the Hon'ble Supreme Court dated 09.05.2008 passed in Writ Petition (Civil) No.202 of 1995 and I.A. No.826...etc., which has been referred by this Tribunal in paragraph Nos.26 and 27 of its judgment delivered in O.A. No.46/2020 (supra).

14. Therefore, as far as objection regarding the site selection, raised by the applicants, it does not hold water. Looking to the fact that permission has been obtained from MoEF&CC and Tree Authority for tree cutting, which are expert bodies in the field and if they have taken

decision for allowing the project in question to go on, that cannot be assailed in the form of present proceeding. Therefore, we do not find fault with the decisions taken by the Authorities, nor those can be challenged in the present proceeding.

15. The details, which have been given by respondent No.1-PMC about the steps which have been taken by them in pursuance of this Tribunal's order dated 02.12.2021 passed in O.A. No.46/2020, which have been quoted (in tabular form) hereinabove by us, appear to be satisfactory to us.

16. In addition to the steps already taken by respondent No.1, we are inclined to dispose of this Original Application with further following directions:

- (a) Respondent No.1 - PMC shall constitute a cell in the form of appointment of an officer who will hold discussion with the stake holders for redressal of their grievances, at least once in two months. This discussion will be held at the project site. Details of the officer so appointed, namely, his name, his official address and cell/telephone number, etc. shall be disclosed at the project site.
- (b) Respondent No.1-PMC shall adopt environment friendly green mechanism for carrying out the project in consultation with the expert/s in the field.

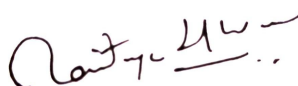
17. No order as to costs.

**Dinesh Kumar Singh, JM**

**Dr. Vijay Kulkarni, EM**

February 22, 2024  
O.A. No.32/2024 (WZ)  
npj

TRUE COPY



## ANNEXURE A-2

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. \_\_\_ OF 2024

(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)

Anuj Abhay Deshpande

..... Applicant

Versus

The Commissioner,

Pune Municipal Corporation &amp; Ors.

..... Respondents

COMPILATION I

Sr. No.	Particulars	Page No.
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**FILED BY****ADV. SUPRIYA DANGARE****FLATNO.4, LUV KUSH BUILDING,****BHARAT KUNJ VASAHAAT 1,****OPPOSITE NEW KARNATAK SCHOOL,****ERANDAWANE, PUNE-411038****CONTACT NO. 9923106109**



**SYNOPSIS**

**I. THE CHALLENGE IN BRIEF:-**

The Applicant by the way of this application seeks for adjudication with respect to the violation of The Environment (Protection) Act, 1986 and tremendous damage which will be caused due to the proposed cutting of trees on the Hanuman Tekdi, the environment shall be damaged to a great extent due to the construction of this water tank on the land which is a Forest.

**II. DATES AND EVENTS :**

<b>DATES</b>	<b>EVENTS/ PARTICULARS</b>
2006-2007	Water tank constructed by the PMC which have been unused till today.
24.05.2022	Approval by MoEF & CC for diversion of 0.7031 ha. Reserved forest land for construction of water reservoir in Sy. No. 262 at Village – Bhamburda, Taluka-Haveli District- Pune.
17.12.2023	The applicants held agitation at Balgandharva Chowk and were joined by many.
10.01.2024	The Applicants noticed JCB Machines at the site.

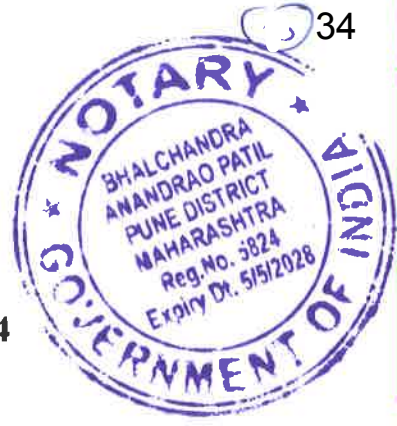
Place: Pune

*SRDangare*  
Adv. for the Applicant

Date: 27.01.2024

2

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE  
ORIGINAL APPLICATION NO. .... OF 2024**



(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)

1. Anuj Abhay Deshpande

Age : 31 yrs. Occupation : Computer Engineer

R/At : 6, Krushnali Apartment,

2 Nav Rajasthan CHS, S.B. Road,

Pune 411016

Mob. No. 9422314960

e-mail : anujdeshpande92@gmail.com

2. Shardul Abhay Mhalgi

Age : 39 yrs. Occupation : Business,

41/a Hanuman Nagar,

'Sankalp Bungalow',

Senapati Bapat Road,

Pune 411016

Ph. No. 9422523355

E Mail : [shardulmhalgi@yahoo.co.in](mailto:shardulmhalgi@yahoo.co.in)

3. Shrirang Prakash Joshi

101 Lotus Residency,

Opp. Joshi Museum Kothrud, 52,

Pune- 41088

Mob No. - 986004562

Email : [shrjoshi@outlook.com](mailto:shrjoshi@outlook.com)

4. Amol Moreshekar Koshe

Age : 45 yrs. Occupation : Service,

R/At : 1098/3a Omkar Bungalow,

Model Colony Road.

Near Model Colony P.O.

Pune - 411016

Ph. No. :8407978664

E Mail : [amolkoshe@gmail.com](mailto:amolkoshe@gmail.com)

5. Venkatesh Gosawi

Age- 53 yrs. Occupation : HR Admin.

Laxman Thite Aop Plot No: 11

Shivaji Nagar .

Pune 411005.

Mob No.-9561110590

E Mail : [Venkatesh.laxmantithe@gmail.com](mailto:Venkatesh.laxmantithe@gmail.com)

6. Atul Kulkarni

Age: 59yrs., Occupation : Self Employed

R/At :G-303,Mayurnagri Society,



New Sangvi,

Ph. No. 8766886710

E Mail : astro11@gmail.com

..... Applicants

Versus

1. The Commissioner,

Pune Municipal Corporation, Shivaji Nagar, Pune 411005

Email : [info@punecorporation.org](mailto:info@punecorporation.org), Ph No. 25501000

2. The Secretary,

Environment Department State of Maharashtra,

Mantralaya ,Mumbai 400032

Email : [psec.env@maharashtra.gov.in](mailto:psec.env@maharashtra.gov.in)

Ph. No. 022 2873845

..... Respondents

1. The addresses of the Applicants are as given above for the service of notices of this application and that of their Representatives is as given above.

2. The addresses of the Respondents are as given above for service of notices of the application

3. The Applicant above names begs to present the Memorandum of Application with respect to the erroneous site selection for construction of water tanks and rampant tree cutting which will occur.

### FACTS OF THE CASE

1. The applicants are the residents of Pune and regularly visiting Fergusson college hill Gat No. 262, Village Bhamburda, Taluka Haveli, Dist. Pune.



The Applicants have taken up issue for saving the Tekdi through various medium including Letter Applications, Letters to the various Authorities etc., started signature campaign under name of Change.org and the Applicants received 1371 signatures, agitation was held at Balgandharva Chouk on 17.12.2023 where many people joined.

2. The applicants herein want to invoke the original jurisdiction of this Hon'ble Tribunal by raising an issue as to the construction activity of water tanks undertaken by the Respondent No.1 i.e. Pune Municipal Corporation.
3. The applicants submit that at the site; there already exists two water tanks admeasuring approximately 150m\* 80m and 60m\* 70m respectively. These existing water tanks were constructed way back in the year 2006 – 2007. The said water tanks are never being used till date since inception. The portion of land which has already been excavated for the existing water tanks can be leveraged without expanding the foot print of excavation which will be optimum usage of already excavated portion to avoid further damage to the environment. The Respondent No.1 has started construction of water tank considering the alleged additional requirement of water for the city of Pune just adjacent to the existing old water tanks. The applicants further state that already while constructing the old water tanks destruction of trees had happened in the past. By taking up construction of the new proposed water tanks will add to damage to the environment.
4. The subject matter of the present Application that is the portion of land on which the Respondent No.1 is proposing construction of water tanks is admittedly "Reserve Forest". The Respondent No.1 under the "Equitable Water Supply Project" has started construction of 82 new water tanks in the city and the said task is entrusted to PMC-Water Supply Department. The Respondent No.1 has engaged services of M/s. Studio Galli Ingegneri to study the existing water supply system, storage and prepare a detailed



project report to cater the water requirement of the city of Pune considering the projected population till the year 2047.

5. The applicants submit that the Respondent No.1 has obtained 'in-Principle' clearance and final approval from the MoEF & the CC vide proceedings dated 24.05.2022. According to the Respondent No.1 necessary permissions for tree cutting is also been procured from the Tree Authority. The copy of approval dated 24.05.2022 is annexed herewith as "**Annexure A**".
6. The applicants submit that the issue was earlier raised before this Hon'ble Tribunal in OA No. 46/2020 thereby raising an issue as to the illegal construction activities undertaken by the Respondent No. 1 – Corporation through the contractor on the forest land in violation of the Forest Conservation Act, 1980 and the rules framed thereunder. This Hon'ble Tribunal was pleased to dispose off the matter vide judgement dt. 02.12.2021.

A copy of the said Judgement is attached here and marked as "**Annexure B**".

7. The applicants in the present Application are coming before this Hon'ble Tribunal under "Precautionary Principle". Although this Hon'ble Tribunal has considered the issue earlier, the present application is different on the following points:

- i) In the present application the applicant is not challenging the construction activity to be 'non forest activity' in the forest land.

- ii) The present applicants are not contending that the construction of water tank is 'illegal' because the same has been adjudicated by this honourable tribunal in OA No. 46/2020 Dr. Sushama Date Vs. PMC and Ors.



The applicants would like to clarify as to why they have come before the Tribunal which can be enumerated as under :

- i) The applicants are raising the issue of site selection .
- ii) The applicants are strongly objecting the tree cutting.
- iii) The fundamental right to have potable water cannot supersede the fundamental right to have healthy and clean environment.

### GROUNDS

- a) The Respondent no.1 has failed to select the site for the construction of new water tanks.
- b) The Respondent no. 1 does not have any justification as to why approximately 140 trees are to be cut, as already there exist two water tanks.
- c) The Respondent no.1 is by selecting the site is taking away the right of the citizens to have clean and healthy environment.
- d) The 'in-principle' approval from MoEF dt. 24.05.2022 is a mere paper formality to show that the activity is in accordance with law but in reality it is frustrating the right of people to have clean air.
- e) The small hills (Tekdi) such as Vetral Tekdi, Hanuman Tekdi etc. are the lungs of the city and by scooping out a portion of this for alleged 'public utility project' is erroneous and detrimental to the right to live in clean environment. When such a portion of hill is scooped out; the same will cause irreparable damage to the environment.
- f) The Respondent no. 1 does not have any justification as to why the said site has been selected for constructing the water tanks. Moreover, when the existing two water tanks are not used since its construction till date



what is the justification to have two more water tanks constructed adjacent to the existing tanks.

- g) The Respondent no ,1 has not considered a sustainable design such as revamping the existing tanks or/ and construction of overhead tanks which would reduce the footprint causing comparatively less damage to the environment.
- h) The Respondent no. 1 , Respondent no. 2 that is Water Supply Department PMC and also the Tree Authority are in fact can be said to be one and the same hence the proposed project has not been scrutinised and nor being weighed on the environmental parameters while considering the project the Respondent no. 1 has considered the proposed increase in population and the requirement of the same but has failed to consider the requirement of unpolluted air to the increased population.
- i) The Third Party Report also has failed to consider the environmental aspect involved or any other suitable sites other than the site involved.
- j) The Respondent no.1 has tried to justify its project by showing as to how it falls in four corners of law but has forgotten its responsibility under the principle of '*parent patria*' to give pollution free environment to its citizens.
- k) The area which will be covered by the proposed construction not less than 0.7 ha. The same will also have ingress and egress of vehicles which will lead to pollution.
- l) Without carrying out any plantation in the area the Respondent no. 1 has started with the project in full swing.





LIMITATION

The cause of action for the present Application first arose on 10.01.2024 when the Applicants noticed JCB Machines carrying out levelling of land for carrying out the construction work of water tanks.

PRAYER

The Applicants **pray** as under:

- a) The Respondent No. 1 may kindly be directed to change the location of the construction of water tanks considering the environmental damage.
- b) The Respondent No. 1 may kindly be directed to stop the work with immediate effect as the same may cause irreparable damage to the citizens of Pune City till the present Application is finally decided.
- c) Any other just and equitable Order in the interest of justice may kindly be passed.

Pune

Abhay Deshpande  
(ABHAY-ABHAY-DESHPANDE)

Shardul Ashay Miralgi  
(SHARDUL ABHAY MIRALGI)

Shrirang Prakash Joshi  
(SHRIRANG PRAKASH JOSHI)

Aamol Koshe  
(AMOL KOSHE)

Venkatam T. Gosavi  
(VENKATEM T. GOSAVI)

Atul Kulkarni  
(ATUL KULKARNI)

Applicants

SRDangane  
Adv. for the Applicants.

Date : 27.01.2024

**VERIFICATION**

I Anuj Abhay Deshpande, Age- 31 yrs., Occupation-Computer Engineer, R/at-6,Krushnali Apartment, 2 Nav Rajasthan CHS,S.B. Road, Pune 411016, state on solemn affirmation that the contents in the Application are true and correct to the best of my personal knowledge, information and belief and hence I have signed hereunder on this the 13<sup>th</sup> day of January 2024, at Pune.

*A. Deshpande*  
Applicant

**VERIFICATION**

I Shardul Abhay Mhalgi, Age- 39 yrs., Occupation-Stock Broker, R/at-41/a, Hanuman Nagar, 'Sankalp Bungalow', Senapati Bapat Road,Pune-411016, state on solemn affirmation that the contents in the Application are true and correct to the best of my personal knowledge, information and belief and hence I have signed hereunder on this the 13<sup>th</sup> day of January 2024, at Pune.

*S. Mhalgi*  
Applicant

**VERIFICATION**

I Shrirang Prakash Joshi, Age- 52 yrs., Occupation-IT Entrepreneur, R/at- 101 Lotus Residency, Opp. Joshi Museum,Kothrud,Pune-411038, state on solemn affirmation that the contents in the Application are true and correct to the best of my personal knowledge, information and belief and hence I have signed hereunder on this the 13<sup>th</sup> day of January 2024, at Pune.

*S. Joshi*  
Applicant



**VERIFICATION**

I Amol Moreshwar Koshe, Age- 45 yrs., Occupation-Software Engineer, R/at- 1098/3a, Omkar bungalow, Model colony, near model colony post office, Pune- 411016, state on solemn affirmation that the contents in the Application are true and correct to the best of my personal knowledge, information and belief and hence I have signed hereunder on this the 13<sup>th</sup> day of January 2024, at Pune.

Applicant

**VERIFICATION**

I Venkatesh Gosawi, Age- 53 yrs., Occupation-HR Admin, R/at- Laxman Tite AOP, Plot No.11, Shivajinagar-411005, state on solemn affirmation that the contents in the Application are true and correct to the best of my personal knowledge, information and belief and hence I have signed hereunder on this the 13<sup>th</sup> day of January 2024, at Pune.

Applicant

**VERIFICATION**

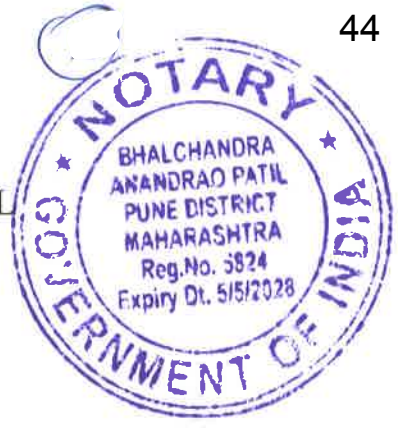
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Applicant

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH, PUNE**

**ORIGINAL APPLICATION ..... OF 2024**



(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)

Anuj Abhay Deshpande & Ors.

...Applicants

Versus

1. The Commissioner,

Pune Municipal Corporation,

2. The Secretary,

Environment Department

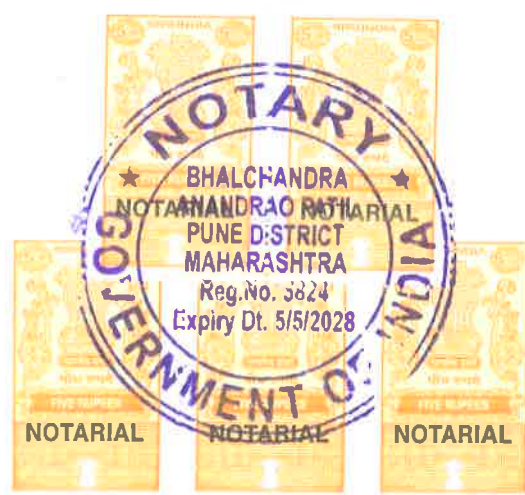
..... Respondents

**AFFIDAVIT**

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I know the Affiant

*SRDangane*  
Advocate



*[Signature]*

Affiant

**BEFORE ME**

*[Signature]*  
BHALCHANDRA ANANDRAO PATIL  
NOTARY  
GOVT OF INDIA  
13-1-2024



**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE  
ORIGINAL APPLICATION ..... OF 2024**

(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)

Anuj Abhay Deshpande & Ors.

...Applicants

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The Commissioner,

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2. The Secretary,

Environment Department

..... Respondents

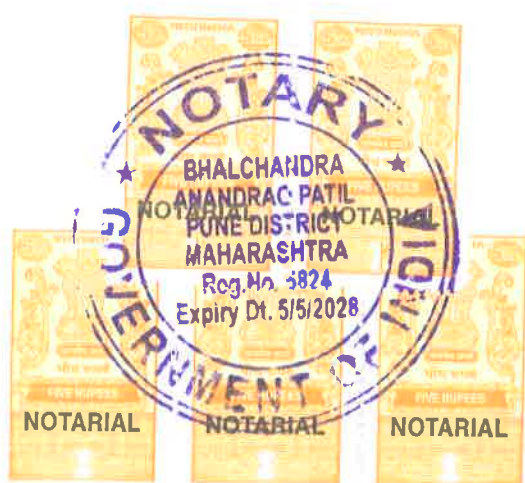
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I know the Affiant

*Shardul Mhalgi*  
Affiant

*SRDangare*  
Advocate



**BEFORE ME**  
*[Signature]*  
BHALCHANDRA ANANDRAO PATIL  
NOTARY  
GOVT OF INDIA  
13-1-2024

**BEFORE THE NATIONAL GREEN TRIBUNAL  
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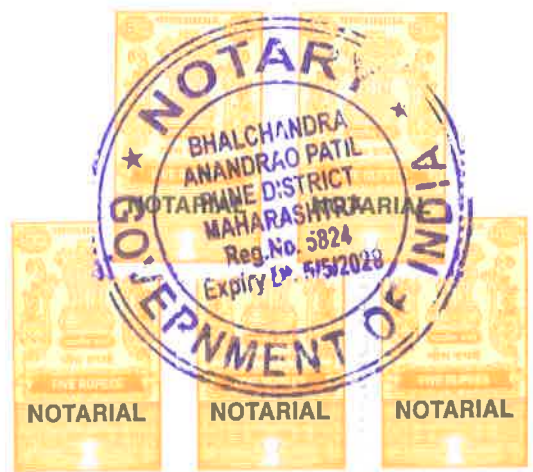
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I know the Affiant

*SRDangne*  
Advocate

*B. Deshpande*  
Affiant



**BEFORE ME**  
*[Signature]*  
BHALCHANDRA ANANDRAO PATIL  
NOTARY  
GOVT OF INDIA  
13-1-2024

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

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(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)



Anuj Abhay Deshpande & Ors.

...Applicants

Versus

The Commissioner,

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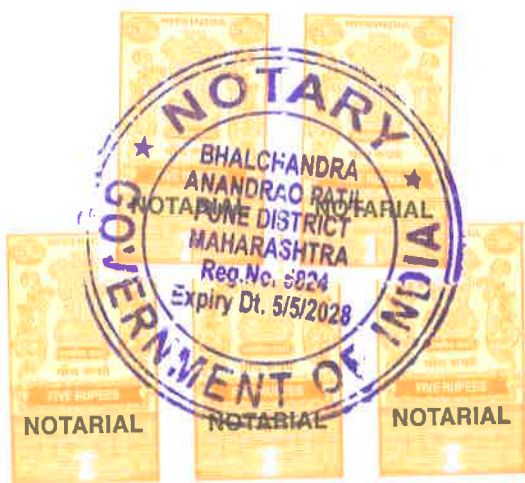
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*SRDangaul*  
I know the Affiant



*A. Koshe*  
Affiant

BEFORE ME  
*Bhalchandra Anandrao Patil*  
BHALCHANDRA ANANDRAO PATIL  
NOTARY  
GOVT OF INDIA  
13-1-2024

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH, PUNE**

**ORIGINAL APPLICATION ..... OF 2024**

(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)



Anuj Abhay Deshpande & Ors.

...Applicants

Versus

The Commissioner,

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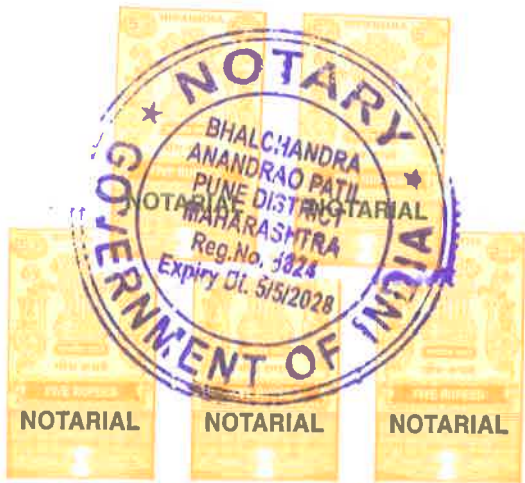
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I know the Affiant

*(Signature)*  
Affiant

*(Signature)*  
Advocate

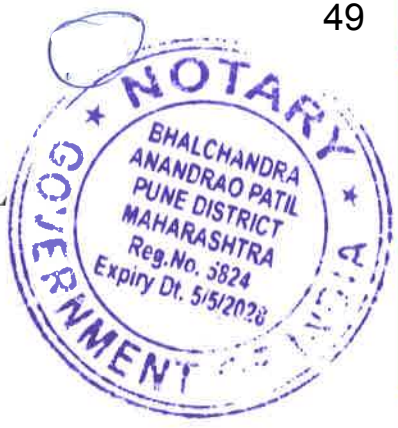


**BEFORE ME**

*(Signature)*  
BHALCHANDRA ANANDRAO PATIL  
NOTARY  
GOVT OF INDIA  
13-1-2024



**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH,PUNE  
ORIGINAL APPLICATION ..... OF 2024**



(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)

Anuj Abhay Deshpande & Ors.

...Applicants

Versus

The Commissioner,

Pune Municipal Corporation,

2. The Secretary,

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..... Respondents

**AFFIDAVIT**

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I know the Affiant

*SRDangane*  
Advocate



*Atul Kulkarni*  
Affiant

**BEFORE ME**

*Bhalchandra Anandrao Patil*  
BHALCHANDRA ANANDRAO PATIL  
NOTARY  
GOVT OF INDIA  
13-1-2024

# VAKALATNAMA

IN THE COURT OF National Green Tribunal AT Pune

Original Application NO. \_\_\_\_\_ OF 2024

Anuj Deshpande and  
Ors

\*Appellant's / Applicant's  
Complainant's  
Petitioner's / Plaintiff's

**VERSUS**  
The Commissioner,  
Pune Municipal Corporation

\*Respondent's /  
Opponent's  
Accused / Defendant's

\* I/We The Undersigned Anuj Deshpande and ors



the Applicants above named hereby appoint & authorise

**ADV. SUPRIYA DANGARE**  
LL.M.  
Flat No. 4, Lav-Kush Building,  
Bharatkunj Vasahat-1, Erandwane,  
Pune-411 038.  
Sanad No. : Mah/1599/2002

\* I am a member /not a member of the Maharashtra Advocates Welfare Fund & I have / have not affixed the required stamp.

\* to appear and plead for me/ us as my/our Advocates in the matter.  
\* In witness where of I? we have signed below this 12<sup>th</sup>  
day of January 2024

Witness

- 1) Anuj Deshpande (ANUJ DESHPANDE)
- 2) Shardul Mhalgi (SHARDUL MHALGI)
- 3) Shrirang Joshi (SHRIRANG JOSHI)
- 4) Amol Koshe (AMOL KOSHE)
- 5) Venkatesh Gosavi (VENKATESH GOSAVI)
- 6) Atul Kulkarni (ATUL KULKARNI)

Accepted and filed on 20/01/2024.

SRDangare  
Signature of Advocate/s

\*(Strike Out that which is not applicable.)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

**ORIGINAL APPLICATION NO. \_\_\_ OF 2024**

(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)

Anuj Abhay Deshpande

..... Applicant

Versus

The Commissioner,

Pune Municipal Corporation & Ors.

..... Respondents

**COMPILATION II**

SR. No.	Particulars	Page No.
1.	<b>Annexure 'A'</b> A copy of approval letter from MoEF dt. 24.05.2022	21 - 23
2	<b>'Annexure B'</b> Copy of Judgement in OA 46/2020	24 - 46

Place: Pune

*SRDangane*  
Adv. for the Applicant

Date : 27.01.2024

508



भारत सरकार  
GOVERNMENT OF INDIA  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
MINISTRY OF ENVIRONMENT, FORESTS  
& CLIMATE CHANGE

Integrated Regional Office  
Ground Floor, East Wing  
New Secretariat Building  
Civil Lines, Nagpur - 440001  
apccfcentral-ngp-mef@gov.in

Eno. FC-1/MIH-175/2020-NGP /9-712

Date: 24.05.2022

To. The Principal Secretary (Forests),  
Revenue and Forest Department,  
Hutatma Rajguru Chowk  
Madam Cama Marg  
Mantralaya, Mumbai - 400032.

Sub: Diversion of 0.7031 ha Reserved Forest land in favour of Water Supply Department, Pune Municipal Corporation (PMC), Pune for Construction of ground water reservoir capacity 13 ML, 2ML and 3.5 ML ESR to supply drinking water to Shivajinagar Pune area under PMC, Pune in forest Sur. No. 262 at Village- Bhamburda, Tal. Haveli, District- Pune District in the State of Maharashtra- regarding.

Sir. The undersigned is directed to refer to APCCF & Nodal Officer (FCA), Government of Maharashtra letter No. Desk-17/NC/II/ID 12764/(19)1732/2019-20 dated 24.01.2020 on the above subject seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980. After careful examination of the proposal of the State Government, 'in-principle' approval was accorded by the Central Government vide its letter of even number dated 25.08.2021. The Addl. PCCF & Nodal Officer (FCA), Government of Maharashtra has now submitted a report on the compliance of conditions stipulated in the 'in-principle' approval and requested the State Government to grant final approval to the proposal.

In this connection, I am directed to say that on the basis of compliance report submitted by the APCCF & Nodal Officer (FCA), Government of Maharashtra vide letter no. Desk-17/Nodal/Pune/ID-12764(19)/191/2022-23 dated 25.04.2022, the Central Government hereby accords 'final approval' under Section - 2 of the Forest (Conservation) Act, 1980 for diversion of 0.7031 ha Reserved Forest land in favour of Water Supply Department, Pune Municipal Corporation (PMC), Pune for Construction of ground water reservoir capacity 13 ML, 2ML and 3.5 ML ESR to supply drinking water to Shivajinagar Pune area under PMC, Pune in forest Sur. No. 262 at Village- Bhamburda, Tal. Haveli, District- Pune District in the State of Maharashtra subject to the fulfilment of the following conditions

- i. Legal status of the forest land shall remain unchanged;
- ii. **Compensatory afforestation**
  - a. Compensatory afforestation shall be taken up by the Forest Department over 1.00 ha degraded forest land in Gut No. 425 at Village- Vadgaon Shinde, Taluka- Haveli, District- Pune at the cost of the User Agency. As far as possible, a mixture of local indigenous species along with 10% RET species of Pune District shall be planted and monoculture of any species may be

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SRD  
5/2/24

avoided. At least one water body shall be constructed in the form of tank/ stop dams etc if the same are not available in the area or in nearby vicinity;

- iii. User agency shall restrict the felling of trees to minimum number in the diverted forest land and the trees shall be felled under the strict supervision of the State Forest Department and the cost of felling of trees shall be deposited by the User Agency with the State Forest Department;
- iv. The complete compliance of the FRA, 2006 shall be ensured by way of prescribed certificate from the concerned District Collector;
- v. Action against violation shall be undertaken as per the provisions made under Para 1.21 of Handbook of Forest Conservation Act, 1980 published in 28.03.2020. Further, a formal enquiry shall be conducted by State Forest Department as per the provisions made under Para 1.21 of Handbook of Forest Conservation Act, 1980 published in 28.03.2019;
- vi. To improve the Forest/ Tree cover and to reduce pollution in the State, as mandated in National Forest Policy, 1988 and Environmental (Protection) Act, 1986 respectively, the User Agency with involvement of Joint Forest Management Committees (JFMC's) and in consultation with local DCF shall raise at least 1000 seedlings of forestry species along with bamboo, fruit bearing, medicinal, ornamental and indigenous/local for 10 years. At least 50% of seedlings shall be planted in the vicinity of project area and remaining 50% of seedlings shall be distributed among villagers as per choice of villagers. The concerned JFMC's shall maintain record of plantation/ seedling distribution to villagers;
- vii. State Forest Department shall undertake avenue plantation at the cost of User Agency along the approach road. Material excavated while execution of construction shall be used as staggered trenches and terrace and plant with native species;
- viii. Speed regulating signage will be erected along the road at regular intervals in the Protected Areas/ Forest Areas;
- ix. The pipeline shall be laid down 1.5 meter below the ground and after lying down of pipe line the ground will be leveled;
- x. The User Agency shall provide an outlet for waterhole for watering plants and the period of supply of water shall be continuous throughout the year at the cost of User Agency;
- xi. User Agency shall obtain Environmental Clearance as per the provisions of the Environmental (Protection) Act, 1986, if applicable;
- xii. The layout plan of the proposal shall not be changed without prior approval of Central Government;
- xiii. No labour camp shall be established on the forest land;
- xiv. Sufficient firewood, preferably the alternate fuel, shall be provided by the User Agency to the labourer after purchasing the same from the State Forest Department or the Forest Development Corporation or any other legal source of alternate fuel;
- xv. The boundary of the diverted forest land shall be suitably demarcated on ground at the project cost, as per the directions of the concerned Divisional Forest Officer;

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- vi. No additional or new path will be constructed inside the forest area for transportation of construction materials for execution of the project work.
  - vii. The period of diversion under this approval shall be co-terminus with the period of lease to be granted in favour of the user agency or the project life, whichever is less.
  - viii. The forest land shall not be used for any purpose other than that specified in the project proposal.
  - ix. The forest land proposed to be diverted shall under no circumstances be transferred to any other agencies, department or person without prior approval of Govt. of India.
  - x. Violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as per the MoEF&CC Guideline F. No. 11-42/2017-FC dt 29/01/2018.
  - xi. Any other condition that the Ministry of Environment, Forests & Climate Change may stipulate from time to time in the interest of conservation, protection and development of forests & wildlife;

This issues with the approval of DDGF (C)/ Regional Officer (Central), Integrated Regional Office, MoEF & CC, Nagpur.

Yours faithfully,

(C.B. Tashildar)  
AIGF (Central)

Copy to:

- i. The PCCF (HoFF), Government of Maharashtra, Nagpur.
- ii. The Addl. PCCF & Nodal Officer (FCA), Government of Maharashtra, Nagpur.
- iii. User agency.
- iv. Guard file.

(C.B. Tashildar)  
AIGF (Central)

अधिक्षक अभियंता

पाणी पुरवठा प्रकल्प

पुणे महानगरपालिका

जाचक क्र. YOC

दिनांक २/९/२०१९

सी भुलकर / सी क्रिस्तांडर

कार्यकारी अभियंता

पाणी पुरवठा प्रकल्प

पुणे महानगरपालिका

सी. क. व. कोडर  
Please discuss about fulfillment  
of conditions stipulated  
above.  
NB

अधिक्षक अभियंता  
पाणी पुरवठा प्रकल्प  
पुणे महानगरपालिका

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**  
(By Video Conferencing)

**Original Application No. 46/2020(WZ)**

**In the matter of:**

**1. Dr. Sushma Date**

Lokmaya Hospital,  
13/4 off Karve Road  
Pune-411004.

**2. Madhavi Rahirkar**

16/4, Erandwane, Santa Krupa  
off Karve Road  
Pune-411004.

**3. Sumita Abhijit Kale**

Durgadhiwas, 823-B,  
Bhandarkar Institute Road,  
Pune-411004.

Applicant(s)

**Versus**

**1. PUNE MUNICIPAL CORPORATION**

Through the Commissioner,  
PMC Main Building,  
Congress house, Shivajinagar  
Pune-411001.

**2. ENVIRONMENT DEPARTMENT**

Through Secretary,  
Room No.217, Mantralaya Annex,  
Mumbai-400022.

**3. FOREST DEPARTMENT, MAHARASHTRA**

Through Principal Chief Conservator of Forests,  
First Floor 'B' Wing, Van Bhavan,  
Civil Lines, Nagpur-440001.

**4. LARSEN AND TOUBRO CONSTRUCTIONS**

Through its Chairman,  
Mount Poonamallee Road, Manapakkam,  
P.B.No.979, Chennai-600 089.

T-C  
SRD  
5/12/24

**5. STATE OF MAHARASHTRA**

Through Chief Secretary,  
Chief Secretary Office,  
Hutatma Rajguru Chowk  
Madame Cama Road,  
Mantralaya, Mumbai-400032.

**6. UNION OF INDIA**

Through Secretary,  
Ministry of Environment, Forest and Climate Change  
Indira Paryavaran Bhavan,  
Jor Bagh, New Delhi-110003.  
Respondent(s).

**Counsel For Applicant (s):** Mr. Maitreya Ghorpade, Advocate.

**Counsel For Respondent (s)** Mr. Rahul Garg, Advocate for R-1.  
Mr. Deepak Gupte Advocate for R-3,6.  
Mr. Devyansh Chaurosia, Advocate for R-4

**PRESENT:**

**CORAM: HON'BLE MR. JUSTICE M. SATHYANARAYANAN, (JUDICIAL MEMBER)**  
**HON'BLE DR. ARUN KUMAR VERMA, (EXPERT MEMBER)**

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**Orders Reserved on: 28.10.2021**

**Pronounced on: 02.12.2021**

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**ORDER**

1. The Original Applicants are the residents of the Deccan Gymkhana/Erandwane area of the city of Pune and claim that they are voluntarily working on the civic issues under the umbrella of "Deccan Jimkhana Parisar Samiti", Pune, and they further state that they have a deep concern and the interest in the issues concerning environment and ecology of the area and carrying on the said activities for very many years with the objective of protecting the environment of the area.
2. The Applicants came forward to invoke the original jurisdiction of this Tribunal, by raising an issue as to the illegal construction activities



undertaken by the 1<sup>st</sup> Respondent- Corporation through the 4<sup>th</sup> Respondent - Contractor on forest lands in violation of the Forest (Conservation) Act, 1980 (In short, "FC Act") and the rules framed thereunder.

The Original Applicants would contend as follows:-

3. The 1<sup>st</sup> Respondent-Corporation through the services of the 4<sup>th</sup> Respondent - contractor is putting an illegal construction of the water tanks on the following three forest lands in the city of Pune:

- a) Panchavati Hill (Gutt Nos. 38 and 39)
- b) Law College Hill (Gutt Nos.49-53 and
- c) Fergusson College Hill (Gutt No.262).

4. The 1<sup>st</sup> Respondent under the garb of said construction, also resorted to illegal felling of trees in blatant and brazen violation of the provisions of FC Act without getting any prior Environmental Clearance (EC) from the Ministry of Environment, Forest and Climate Change (MoEF&CC) of the Govt. of India. The lands in Survey No.49-53 situate in the Law College Hill, are identified 'forest' in terms of the decision of the Hon'ble Supreme Court of India reported in **1997 (2) SCC, 267- (T.N.Godavaraman Thirumulpad Vs Union of India & Ors.)**. The Deputy Conservator of Forest, Pune Forest Division also sent a communication dated 16/07/2021 addressed to the 1<sup>st</sup> Respondent-Corporation stating amongst others that they become aware of the fact that the 1<sup>st</sup> Respondent-Corporation intends to construct 100 ft width road connecting Bal-Bharati with Paud-Phata passing through the existing vegetation in the Law College premises in plot No.97 Survey No.53 and that the said area is regarded as "Forest" in the light of the above cited Judgment of the Hon'ble Supreme Court of India and as such, no non-forest activities can be taken without obtaining prior sanction of the Government of India under the FC Act.



5. The 1<sup>st</sup> Respondent despite the said communication dated 16/07/2001 (Annexure-A) proceeded to construct the water tanks without Forest Clearance and in process, also felled the trees in an illegal manner and also cleared the forest land. The Law College hill area is also an important aquifer for the city of Pune and as such, any construction on the said area would also decrease the percolation and accumulation of the groundwater.

i) As regards the construction activities taking place in Panchvati Hill (Gut Nos.38-39) it is contended by the Original Applicant, the said area is also classified as 'forest' within Revised Draft Development Plan 2007-2027 published under Section 26(1) of the Maharashtra Regional and Town Planning Act, 1966 and that of all the explained meaning of definition 'forest' as held by the Supreme Court of India in the above cited decision, would also have application. The 1<sup>st</sup> Respondent-Corporation also putting the water tank at Panchvati Hill without any prior EC also resorted illegal cutting and felling of trees.

ii) The construction activities undertaken by the 1<sup>st</sup> Respondent on Fergusson College Hill within Gut No.262 is also a "Reserved Forest" and the Original Applicants took similar stand as that of the construction activities being undertaken in the Law College Hill as well as in Panchvati Hill area.

6. In sum and substance, it is a case of the Original Applicants that though the lands in above said areas/places are forests, 1<sup>st</sup> Respondent without getting any prior EC from the Govt. of India, is proceeding with the construction of water tanks and in the process, resorted to illegal cutting and felling of the trees, and also cleared the forest land, and as such by applying the "Polluters pay Principle" they are not only liable to pay environmental compensation but should be prevented from carrying on the said activities and

therefore, came forwarded to file this Original Application with the following prayers:

- A. Direct the Respondent No.1 to carry out compensatory afforestation at the ratio of 1:10 near the forest areas situated on Gut Nos.38-39,262 and Survey Nos.49-53 where there has been illegal tree felling for the construction;
- B. Direct the Respondent Nos. 1 to 4 to be permanently restrained from carrying on construction on Gut No.262 and Survey Nos.49-53;
- C. Direct the Respondent No.1 to pay environmental compensation for damage caused to the forest land situated on Gut No.38-39,262 and Survey Nos.49-53;
- D. Direct that the officers from Respondent Nos. 1 and 3 penalized and action taken to be taken against them for violating the provisions of the Forest (Conservation) Act,1980;

**7.** This Tribunal has entertained the Original Application vide order dated 06/08/2020.

**8.** Mr. Rahul Garg, learned Counsel, is appearing for the 1<sup>st</sup> Respondent, Mr. Deepak Gupte, learned Counsel, is appearing for the Respondent Nos. 3 and 6 and Mr. Sunil Tilochandra, learned Counsel, is appearing for the 4<sup>th</sup> Respondent.

**9.** The 1<sup>st</sup> Respondent has filed the affidavit in reply dated 20/03/2021 with Annexures A to H. The 1<sup>st</sup> Respondent in the reply affidavit would state as follows:-

i) The 1<sup>st</sup> Respondent under the "Equitable Water Supply Project", started constructing eighty two (82) new water tanks /renovation in addition to



the existing tanks, through the city of Pune, and the said task is entrusted to PMC- Water Supply Department.

ii) The said construction/renovation is undertaken for the purpose of ensuring an equal - pressure and sufficient supply of water throughout the city of Pune by taking into account the rising population.

iii) Three (3) tanks out of eighty two (82) water tanks are being constructed on the Fergusson College Hill (Survey No.262), one (1) tank is being constructed on Panchvati Hill (Survey No.38) and two (2) tanks are constructed at the Law College Hill (Survey Nos. 44,49 to 50).

iv) The period for implementation of the entire project, is from the year 2014-2023 and this project is being implemented to address problems like high level of water losses due to leakage, loss of revenue to the 1<sup>st</sup> Respondent - Corporation related to NRW category the quality in distribution of water, in various parts of the city. The 1<sup>st</sup> Respondent has also engaged services of a project consultant namely; M/s Studio Galli Ingegneri to study the existing water supply system, storage and prepare a detailed project report to cater the water requirement of the city of Pune considering the projected population till the year 2047. Accordingly, the Project Proponent (PP) has prepared a detailed project report during February, 2014 and accepting the same, the 1<sup>st</sup> Respondent has issued a Tender Notification dated 08/07/2016 and after processing the Tender, the 4<sup>th</sup> Respondent has been chosen as the contractor for the project of construction of ESR and GSR at various locations in PMC area and an agreement dated 23/09/2016 also came to be entered with them. The estimated cost of the project is at Rs.245,24,90,252/-.

v) The 1<sup>st</sup> Respondent took the preliminary objection as to the claim of the Original Applicant, is barred by limitation in the light of the fact that it is their own admissions that illegal felling of trees began in late 2019 and in the

light of Section 14(3) of the National Green Tribunal Act, 2010, it is hopelessly barred by limitation.

vi) The 1<sup>st</sup> Respondent dealing with the merits of the case, took a stand that in Survey No.38-Pashan-Panchvati hills, there were no trees on the site in which water tank is being constructed. In Survey No.262- Fergusson College Hill there were existing water tanks and those tanks were demolished and new water tanks are being constructed. Since the construction of new water tanks require more area, permission from the Tree Authority vide Outward No.403, 357 and 358 dated 23/05 and 17/05 of 2018 respectively had been obtained. As regards Survey Nos.49-53- Law College Hill is concerned, the lands continue to be in possession of the 1<sup>st</sup> Respondent-Corporation for construction of the water tank, permission from the Tree Authority vide Outward No.7234 dated 21/01/2019 has been obtained.

vii) The 1<sup>st</sup> Respondent dealing with the contends that the lands in question are 'forest lands', took a stand that the lands continue to be in possession of the 1<sup>st</sup> Respondent-Corporation for the water tank purpose and since the proposed construction is also of water tanks and that requisite permissions from the Tree Authority have also been obtained, stand taken by the Original Applicant in this regard a per-se unsustainable.

viii) Insofar as plea taken by the Original Applicant that the construction of the water tank, does not come into the definition of 'non-forest purpose' would contend that the 1<sup>st</sup> Respondent -Corporation submitted a proposal dated 20/07/2018 to the Forest Department praying for necessary permission to put up construction and their response is awaited. Now, coming to issue relating to illegal cutting and felling of trees the 1<sup>st</sup> Respondent took a stand that the contractor namely; the 1<sup>st</sup> Respondent had already planted 54750 trees and adequate care has been taken to rear and it may take years to become trees fully grown.



ix) The 1<sup>st</sup> Respondent in the light of plea taken in their reply affidavit prays for dismissal of this Application with permission to proceed with the construction.

**10.** The Original Applicant has filed the rejoinder and repudiation with Annexure A-10 to A-30 dated 27/10/2021 and apart from reiterating a stand taken by them in the Original Application would contend the lands in all of the three (3) areas continued to be classified as 'forest land' as per the Government record and since construction activities had commenced without getting any prior FC, *post-facto* clearance cannot be given and whatever environmental degradation taken place on account of the construction of water tanks, should be set right by levying environmental compensation. As regards the tree plantation undertaken by the 4<sup>th</sup> Respondent-Contractor, no such plantations took place at the project site Survey No.49-53 - Law College Hill and whatever the tree saplings took place the same have been maintained by the 4<sup>th</sup> Respondent.

**11.** The 1<sup>st</sup> Respondent has filed the additional affidavit with four (4) Annexures dated 22/09/2021 to the said Rejoinder filed by the Original Applicant and reiterated their earlier stand and took the stand that the Fergusson College Hill site is classified as 'forest land' and the construction site in land Survey No.38/Panchvati is classified as 'open class land' and with regard to 'deemed forest' in respect of the said survey numbers in-principle clearance has been obtained from the MoEF&CC vide proceeding dated 25/08/2021 as well as in respect of the land Survey No.262 of Fergusson College hill. Insofar as cutting of trees are concerned, necessary permissions have been obtained from the Tree Authority and taking into consideration the increase in population and procurement of the water supply, the construction of water tanks undertaken is only in the public interest for the benefit of the residents of Pune city at large and it cannot be faulted with.

12. The learned Counsel appearing for the Original Applicants has invited attention of the Tribunal to the supporting documents filed in support of the Original Application as well as with rejoinder affidavit and would submit that as per the Annexure A-1 and A-2 dated 31/03/2000 and 16/07/2001, the lands in Fergusson College hill Survey Nos. 49-53 are regarded as 'forest' and admittedly, the *post-facto* FC has been accorded by the MoEF&CC dated 25/08/2001 and the same is sustainable in the light of the provisions of the FC Act, and the decision of the Hon'ble Supreme Court of India is reported in 1997 (2) SCC 267 (cited supra). It is further contended by the learned Counsel appearing for the Original Applicants that the construction of water tanks, lies inside the forest areas and process of illegal cutting/felling of trees, is unsustainable for which the 1<sup>st</sup> Respondent -Corporation is liable to pay environmental compensation and also under obligation to undertake afforestation activities. It is also submission of the learned Counsel appearing for the Original Applicants that the lands Survey Nos.49-53 are also aquifer areas in the light of the Report by the Advance Centre for Water Resources, Development and Management dated July, 2019, any construction, resulting degradation of the groundwater supply as well as percolation/accumulation and therefore would contend that the Tribunal may issue appropriate directions by directing the 1<sup>st</sup> Respondent to carry out compensatory afforestation in the forest areas, forbidding them from proceeding with the construction and to pay environmental compensation and also a direction to initiate an appropriate penal action against the concerned officials of the Respondent Nos. 1 to 3.

13. Per contra, the learned Counsel appearing for the 1<sup>st</sup> Respondent, would contend that taking into account the increase in the population and the water requirement up to the year 2047 a fair, conscious and transparent decision has been taken to augment the water supply in the city of Pune and after



engaging the services of an expert, it has decided to construct the water tanks and most of the constructions pertain to demolition of the existing water tanks and putting their new one and since it is also undertaken in the public interest, it cannot be faulted out.

**14.** It is further submission of the learned Counsel appearing for the 1<sup>st</sup> Respondent, insofar as the stand taken by the Original Applicant as to the areas declaration as 'forest', the revenue records say otherwise and insofar as felling of the trees is concerned necessary permission/approval had been obtained from the Tree Authority. The learned Counsel appearing for the 1<sup>st</sup> Respondent has drawn attention of the Tribunal to the reply affidavit of the 3<sup>rd</sup> Respondent dated 22/02/2021, and would submit that the 3<sup>rd</sup> Respondent is the best person to speak about this Application and according to them the land Survey No.38/39 (Pashan hill) is classified as 'unclassified forest' lands and came into the possession of the Forest Department from the Revenue Department in the year 1988 and 1991, and the said official took the stand that the construction of water tanks has been commenced with prior permission and it was pointed out, the construction has been stopped in the year 2018. So far as the planting of trees is concerned, it is pointed out from the reply-affidavit of the 3<sup>rd</sup> Respondent that the Survey Nos.49-53 are not identified as 'forest' and in terms of "Green Pune Scheme" launched in the year 1998 the Forests Department as well as the 1<sup>st</sup> Respondent had planted trees on these lands. As regards the lands in Survey Nos.38 and 39 - Panchvati Hill, the 1<sup>st</sup> Respondent has submitted a proposal of diversion of the forest land for construction of water tanks vide communication dated 26/08/2019 and 09/09/2019 respectively. The Deputy Conservator of Forest, Pune Division Pune sent communications to the Chief Conservator of Forest territorial Pune, pointing out the land in Survey No.38 is identified 'forest' and measures at 0.571 ha and land in Survey No.262 is 'Reserved forest' and lands are to be



diverted of 0.7031ha and the said proposal is under consideration. Therefore, it is contended by the learned Counsel appearing for the 1<sup>st</sup> Respondent, in the light of the reply affidavit as well as additional reply to the Rejoinder filed by the Original Applicants coupled with stand of the 3<sup>rd</sup> Respondent, the act of construction of water tanks is purely in the public interest and for benefit of the residents of Pune city and surrounding areas and it cannot be faulted with and on account of pendency of this Original Application proposal for diversion of the forest land is pending consideration and it also leads to time and cost overrun of the project and prays for dismissal of the Application with exemplary costs.

**15.** The learned Counsel appearing for the 6<sup>th</sup> Respondent, who is also appearing for the 3<sup>rd</sup> Respondent took the stand that the 6<sup>th</sup> Respondent filed two (2) proceedings dated 25/08/2021 had accorded diversion of 0.571ha land in Survey No.262 of Bhamburde village in favour of the Water Supply Department of the 1<sup>st</sup> Respondent-Corporation and 0.571ha of land in Pashan village is identified as 'forest' land in Pashan village in favour of the said department, subject to various conditions and one of the conditions is that the legal status of the 'forest' shall remain unchanged and as such, the grievance expressed by the Original Applicant has been taken care of and addressed and prays for dismissal of the Original Application.

**16.** The Tribunal paid it's anxious consideration and best attention to the rival submissions and also perused the material placed on record.

**17.** The issue arises for our consideration is :

Whether the construction of water tanks by the 1<sup>st</sup> Respondent-PMC through the contractor namely; the 4<sup>th</sup> Respondent on the lands classified as 'forest' is sustainable?

18. In **1997 (2) SCC, 267** (cited supra) the Hon'ble Supreme Court of India having noted

*“there is misconception in certain quarters about true scope of the Forest (Conservation) Act, 1980 and the meaning of word ‘forest’ used thereon and also a resulting misconception about the need of prior approval of the Central Government under Section 2 of the FC Act in respect of certain activities in the forest area which are more often of a **commercial nature** that clarified the said proposition”.*

(Emphasis Supplied).

19. In **2011 (1) SCC 744 (IN RE: Construction of Park at Noida near Okhla Bird Sanctuary Versus Union of India & Ors)** a Bench consisting of three (3) Hon'ble Judges of the Hon'ble Supreme Court considered the issue relating to determination of the 'forest' land as well as manmade forest and afforestation. Perusal of the said Judgment and the facts leading to the said decision would read that the Government of Uttar Pradesh had undertaken a very large project and objecting to the same two (2) Applicants, who are residents of Sector-15-A, Noida, by invoking the jurisdiction of the Hon'ble High Court of Allahabad by contending that the said project is a huge construction and in the process, larger number of trees were cut down for clearing the ground for the project and it is also a forest. The petitioners also placed reliance upon the decision rendered by the Hon'ble Supreme Court of India reported in **1997 (2) SCC, 267** (cited supra). The Hon'ble Supreme Court of India after considering the decision reported in **1997 (2) SCC 267**, on which the learned Counsel appearing for the Applicants also placed heavy reliance, had observed as follows:

*“30. The order dated December 12, 1996 indeed gives a very wide definition of “forest”. But any definition howsoever wide relates to a context. There can hardly be a legal definition, in terms absolute, and totally independent of the context. The context may or may not find any articulation in the judgment or the order but it is always there and it is discernible by a careful analysis of the facts and circumstances in which the definition was rendered. In the order the Court said “The term ‘forest land occurring in Section 2, will not only include ‘forest’ as understood in the dictionary sense, but also an area recorded as forest in the Government record irrespective of the ownership” (emphasis added). Now what is meant by that is made clear by referring to the earlier decision of the court in State of Bihar v. Banshi Ram Modi, (1985) 3 SCC 643.”*

20. In paragraph 35, the Hon'ble Supreme Court having noted that “almost of the orders and the Judgment of this Court, defining ‘forest’ and ‘forest land’ for the purpose of FC Act, were rendered in the context of Mining, or Ore, illegal felling of trees for timber or illegal removal of other forest produce or the protection of natural power from wild centuries observed as follows:

*“35. Almost all the orders and judgments of this Court defining “forest” and “forest land” for the purpose of the FC Act were rendered in the context of mining or illegal felling of trees for timber or illegal removal of other forest produce or the protection of National Parks and wild life sanctuaries. In the case in hand the context is completely different. Hence, the decisions relied upon by Mr. Bhushan can be applied only to an extent and not in absolute terms. To an extent Mr. Bhushan is right in contending that a man made forest may equally be a forest as a naturally grown one. He is also right in contending that non forest land may also, with the passage of time, change its character and become forest land. But this also*

***cannot be a rule of universal application and must be examined in the overall facts of the case otherwise it would lead to highly anomalous conclusions.”***

21. In paragraph No. 37, the Hon'ble Supreme Court of India concluded that “the project site is not forest land and construction of the project without permission from the Central Government does not in any way contravene Section 2 of the Forest (Conservation) Act”.
22. The Hon'ble Supreme Court of India in the said decision has also considered the scope and purport of the EIA Notification, 2006, especially the Item-8 (n and b) - categorisation observed as follows:

***65. It is extremely difficult to accept the contention that the categorization under items 8 (a) and 8 (b) has no bearing on the nature and character of the project and is based purely on the built up area. A building and construction project is nothing but addition of structures over the land. A township project is the development of a new area for residential, commercial or industrial use. A township project is different both quantitatively and qualitatively from a mere building and construction project. Further, an area development project may be connected with the township development project and may be its first 53 stage when grounds are cleared, roads and pathways are laid out and provisions are made for drainage, sewage, electricity and telephone lines and the whole range of other civic infrastructure. Or an area development project may be completely independent of any township development project as in case of creating an artificial lake, or an urban forest or setting up a zoological or botanical park or a recreational, amusement or a theme park.***

***66. The illustration given by Mr. Bhushan may be correct to an extent. Constructions with built up area in excess of 1,50,000 would be huge by any standard***

and in that case the project by virtue of sheer magnitude would qualify as township development project. To that limited extent there may be a quantitative correlation between items 8(a) and 8(b). But it must be realized that the converse of the illustration given by Mr. Bhushan may not be true. For example, a project which is by its nature and character an "Area Development project" would not become a "Building and Construction project" simply because it falls short of the threshold mark under item 8 (b) but comes within the area specified in item 8 (a). The essential difference between items 8(a) and 8(b) lies not only in the different magnitudes but in the difference in the nature and character of the projects enumerated there under.

67. In light of the above discussion it is difficult to see the project in question as a "Building and Construction project". Applying the test of 'Dominant Purpose or Dominant Nature' of the project or the "Common Parlance" test, i.e. how a common person using it and enjoying its facilities would view it, the project can only be categorized under item 8(b) of the schedule as a Township and Area Development project". But under that category it does not come up to the threshold marker inasmuch as the total area of the project (33.43 hectares) is less than 50 hectares and its built-up area even if the hard landscaped area and the covered areas are put together comes to 1,05,544.49 square metres, i.e., much below the threshold marker of 1,50,000 square metres. 58. The inescapable conclusion, therefore, is that the project does not fall within the ambit of the EIA notification S.O. 1533(E) dated September 14, 2006. This is not to say that this is the ideal or a very happy outcome but that is how the notification is framed and taking any other view would be doing gross violence to the scheme of the notification.

**68. Since it is held that the project does not come within the ambit of the notification, the other three arguments based on the activity area, the application of general condition and the application of the office memorandum dated December 2, 2009 become irrelevant and need not be gone into in this case.”**

23. The Hon'ble Supreme Court of India having noted that the projects/activities centre Items A and B of the Schedule to the EIA Notification, dated 14/09/2006 need to be described with greater precision and clarity etc directed the conducting of environment impact studies.

24. It is to be noted at this juncture that the decision rendered by Hon'ble two (2) Judges Bench in **1997 (2) SCC 267** (cited supra) was considered and distinguished by a larger Bench of Hon'ble Supreme Court of India in **2011 (11) SCC 744** and in paragraph 35, it is observed that **“but this also cannot be a rule universal application and must be examined in the overall facts of the case, otherwise, it would lead to highly anomalous conclusions”**.

25. The Hon'ble Supreme Court of India also in the above cited decision noted that the earlier decisions came into being, in the context of granting a Mining lease or renewal and the Court expanded the definition of 'forest'. (Para-33).

**“33. Before proceeding to examine the issue in detail it would be useful to see the views taken by the different authorities, agencies and the MoEF on the question whether the law required prior environmental clearance for the project. It appears that once the controversy was raised, the project proponents, by letter dated April 24, 2009 approached the State Level Environment Impact Assessment Authority, Uttar Pradesh constituted under the EIA notification, 2006, seeking environmental clearance for the project. In**

*reply the SEIAA by its letter dated May 7, 2009 stated that having regard to the nature and the area of the project it was not covered by the schedule of the notification No. S.O.1533 (E) dated September 14, 2006 issued by the Government of India”.*

26. The Hon'ble Supreme Court of India in the interim order dated 09/05/2008 in WP (Civil) No. 202 of 1995 and I.A.No.826.... Etc reported in **2008 (8) SCCR (152) (T.N. Godvarman Thirumulpad Vs Union of India & Ors)** has passed the order regarding Net Per cent Value (NPV) and by taking into consideration error expecting a substitute the category which is as follows:-

**Category:-**

**i) Schools**

**ii) Hospitals**

**iii) Children's playground of non-commercial nature**

**iv) Community centres in rural areas**

**v) Over-head tanks**

**vi) Village tanks,**

**vii) Laying of underground drinking water pipeline upto 4 diameter and**

**viii) Electricity distribution line upto 22 KV in rural areas.**

**Relocation of villages from the National Parks/Sanctuary to alternate forest land Collection of boulders/silts from the river belts in the forest area Laying of underground optical fibre cable Pre-1980 regularisation of encroachments and conversion of forest villages into revenue villages' Underground mining.”**

27. In the same matter, vide Judgment dated 28/03/2018 and the Hon'ble Supreme Court has taking into consideration “ **as part developmental activities, some areas of the forest used to be taken as 'non forest purpose' and the payment of NPV found that the NPV now fixed is more**

**scientific it is based on all available data and also recommended following exemptions:**

**Exemptions.....**

- (i) public works such as schools, hospitals, children play grounds of non-commercial nature and the public welfare projects such as community centres in rural areas which require forest land upto 2 ha;
- (ii) rural infrastructure and basic services such as the construction of the overhead tanks, village roads, etc.
- (iii) the minor irrigation projects upto 10 ha. of storage area, municipal water supply projects, drinking water supply pipelines;
- (iv) activities necessary for the ecological management, relocation of the villages from the sacruaries and the national parks, regularization of pre-1980 eligible encroachers;
- (v) housing for the rehabilitation of tribals; laying of the underground optical fibre cables;
- (vi) laying of the pipelines for the underground gas transportation;
- (vii) the district and rural roads;
- (viii) shifting cultivation;
- (ix) roads constructed by Defence in border areas;
- (x) construction of the transmission lines.

The above recommendations for exemptions are accepted. If, in any case, exemption is required by nature of the peculiar circumstances of the case, the same would be decided as and when necessary on a case to case basis”.

- 28.** In the case in hand, the dispute mainly pertains to the classification of the lands in question. Therefore, the reply-affidavit of the 3<sup>rd</sup> Respondent dated 22/02/2021 with Annexures assume importance. According to the 3<sup>rd</sup> Respondent the lands in Survey No.49-53 (Law College Hill- Pashan) are unclassified forest came in their possession from the Revenue Department on 18/08/1980 and 13/06/1991 respectively and since then those forest lands



have been in their possession and having noted the construction of water tank was taken by the 1<sup>st</sup> Respondent as illegal one it was pointed out to them in year 2008 and immediately such construction activities have been stopped. Insofar lands in Survey Nos. 49-53-Law College hill are concerned, it is the stand of the 3<sup>rd</sup> Respondent that said lands having been identified as 'forest' and in times of within the 'Green Pune Scheme' launched in 1990 the Forest Department as well as the 1<sup>st</sup> Respondent had planted trees on those lands and that apart the said lands are not in possession of the Forest Department. It is also stated by the 3<sup>rd</sup> Respondent that the 1<sup>st</sup> Respondent has submitted a proposal for diversion of the forest land in Survey Nos.38/39- Pashan-Panchvati hills, and the proposal is still under consideration and according to the learned Counsel for the 3<sup>rd</sup> Respondent in the light of pendency of this Original Application, further process could not take place. It is also stand of the 3<sup>rd</sup> Respondent that no felling of trees took place in Survey Nos.38 and 39, so far as Survey No.262-Fergusson College hill is concerned, it is a Government land in possession of the Forest Department from 01/02/1990 and having noted that levelling of the land took place which was stopped by the RFO on 31/01/2019 and thereafter the 1<sup>st</sup> Respondent has stopped the proposal for construction of water reservoir, vide letter dated 26.08.1990 and it is also under consideration. It is also relevant extract of the paragraph No.18 of the reply affidavit.

**29.** The learned Counsel appearing for the 6<sup>th</sup> Respondent, who is also appearing for 3<sup>rd</sup> Respondent would submit, with regard to diversion of 0.0703ha of the forest land in Survey No.262 of Bhambudra village and 0.571ha identified forest land in the village of Pashan, the 1<sup>st</sup> Respondent vide two proceedings dated 25.08.202P1, has accorded in-principle approval under Section 2 of the Forest (Conservation) Act,1980 in favour of the Water Supply Department of PMC, subject to twenty four (24) conditions and also pointed

out despite such approval for diversion, it has been made very clear that legal status of the 'forest' land shall remain unchanged.

30. It is not in serious dispute that demolition of old water tanks and on construction of new water tanks and creation of a reservoir, is for the benefit of the residents of Pune and surrounding areas in large and it is also in the public interest. The 1<sup>st</sup> Respondent in the reply affidavit took a stand that considering the water requirement with regard to the project and population till year 2047, services of the project consultant was utilized by taking into consideration all the relevant aspects and the project report, floated tender in the year 2016, and after processing, awarded the construction work to the 4<sup>th</sup> Respondent to execute the said project and an agreement was also signed on 23/09/2016 and insofar as objection raised by the Forest Department is concerned, necessary proposal has been submitted and admittedly no construction activities in respect of the lands which are the subject matter of the objection taking place from the year 2018. As regards, felling of trees is concerned, the reply affidavit of the 1<sup>st</sup> Respondent also discloses that permissions/approvals have been obtained from the concerned statutory authorities. As to the planting of trees is concerned, the 1<sup>st</sup> Respondent took a stand that so far the 4<sup>th</sup> Respondent-contractor had planted 54750 trees and rearing of the same is being looked after, however same has been seriously disputed by the learned Counsel appearing for the Original Applicant.

31. The Hon'ble Supreme Court of India in a decision reported in **(2008) 12 SCC 646 A. Chowgule & Company Limited vs Goa Foundation and Ors** had considered the issue relating to re-forestation and afforestation and observed as follows:-

***23. Some arguments have flown during the course of the hearing that the appellants were willing to reforest an identical area in case the lease was allowed to be***

effectuated. In this connection, some observations need to be made. The basic question is as to what is implied by the terms afforestation or re-forestation. Is it merely the replacement of one tree with another or does it imply something a little more complex? "Reforestation is the restocking of existing forests and woodlands which have been depleted, with native tree stock, whereas afforestation is the process of restoring and recreating areas of woodlands or forest that once existed but were deforested or otherwise removed or destroyed at some point in the past".

24. In the present case, we are concerned with afforestation and the promise of the appellant to plant trees in an equivalent area. We, however, find from experience and observation that the re-forestation or afforestation that is being carried out in India does not meet the fundamentals and the planting of new trees to match the numbers removed is too simplistic and archaic a solution, as in the guise of compensatory replantation, local varieties of trees are being replaced by alien and non-indigenous but fast growing varieties such as poplar and eucalyptus which make up the numbers but cannot satisfy the needs of our environmental system. It must be borne in mind that both re-forestation and afforestation envisage a resurrection and re-plantation of trees and other flora similar to those which have been removed and which are suitable to the area in question.

25. There is yet another circumstance which is even more disturbing inasmuch as the removal of existing forest or trees suited to the local environment have destroyed the eco system dependent on them. This is evident from the huge depletion of wild life on account of the disturbance of the habitat arising out of the destruction of the existing forest cover. A small but significant example is the destruction of plantations alongside the arterial roads in India. 30 years ago all

*arterial roads had huge peripheral forest cover which not only provided shade and shelter to the traveller but were a haven to a large variety and number of birds and other wild life peculiar to that area.*

*26. With the removal of these plantations to widen the roads to meet the ever growing needs of the traffic, and their replacement by trees of non-indigenous varieties, (which are often not eco or bird friendly) in the restricted and remaining areas bordering the widened roads, the shelter for birds has been destroyed and where thousands of birds once nested and bred, there has been a virtual annihilation of the bird life as well.*

32. Whatever the alleged reforestation/afforestation took place said to have been taken place, is to be monitored at regular intervals.

33. In the light of the recent decision and more particularly, a larger Bench of Hon'ble Supreme Court of India in a decision reported in **2011 (1) SCC 744** (cited supra) distinguishing the earlier Judgment reported in **1997 (2) SCC, 267**, ***"it cannot be said that the construction of water tanks/ allied activities on the lands in Law College hill and Fergusson College hill on the part of the 1<sup>st</sup> Respondent cannot be faulted.*** It is also to be noted at this juncture that as per a stand of the 3<sup>rd</sup> Respondent, a proposal for diversion of 'forest land' made by the 1<sup>st</sup> Respondent-Corporation, is also pending consideration and that apart, the 6<sup>th</sup> Respondent has also granted in-principle approval for the diversion for the 'reserved forest land' in Survey No.262 Bhambudra village in respect of 0.0571ha identified as 'forest land' at Pashan and Sutarwadi area, subject to many very conditions and also made it clear that legal status of the 'forest land' shall remain unchanged.

34. However, taking into consideration facts and circumstances, the Respondent Nos. 2, 3 and 6, shall cause periodical as well as surprise

inspection and if any infractions/violations are noted, shall take immediate, necessary and appropriate actions on accordance with law against the concerned violators. The said Respondents shall also ensure that the trees claimed to have been planted by way of afforestation, are reared and maintained properly so that adequate green/forest cover is created.

**35.** In the result, the Original Application is dismissed subject to above observations. However, in the circumstances of the case, there shall be no order as to costs.

M. Sathyanarayanan, JM

Dr. Arun Kumar Verma, EM

December 02, 2021.  
Original Application No.46/2020(WZ) nk

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH, PUNE**

**ORIGINAL APPLICATION NO. \_\_\_ OF 2024**

(U/S 18 (1) R/w 14, 15 and 20 of the National Green Tribunal Act 2010)

Anuj Abhay Deshpande

..... Applicant

Versus

The Commissioner,

Pune Municipal Corporation & Ors.

..... Respondents

**CLARIFICATION ON DEFECTS RAISED BY NGT**

<b>Reason</b>	<b>Remarks</b>	<b>Clarification</b>
Has the Vakalatnama/Memo appearance authorization been filed?	Prescribed court fee stamp is not affixed on Vakalatnama.	The court fee stamp has been affixed on the Vakalatnama
Have legible copies of the annexures duly attested been filed?	1. Annexure A is not scanned properly. Applicant to scan the annexure in high resolution to avoid inconvenience to the Hon'ble Tribunal. 2. Annexures are not attested.	The uploaded document is the best available resource with the Applicants.
Is the application/appeal made in time or maintainable?	Limitation clause is not elaborate properly. Applicant to explain that how present application is maintainable and	The applicants are regular visitors of the subject matter of the present petition. The applicants for the first

	within limitation under which section of the NGT Act, 2010 and NGT Practice and Procedure rules.	time noticed some JCB machined at the site and thereafter started enquiring. The applicants, got to know that the Respondent No.1 is proposing construction of a water tank. Hence, the cause of action first arose on 11.01.2024 when the applicants noticed the machinery for carrying out construction work by the Respondent no. 1, the petition is thus filed within six months from the cause of action first arose. Hence the same is within limitation.
Proceed further?	Applicant to refilled the properly scanned complete copy of the petition with date of refilling in one PDF within 7 days.	Yes
Whether all the necessary parties are impleaded?	It appears that, Applicant has not made party to the Forest Department officials in present OA.	There is no relief against the Forest Department officials hence the Forest Department officials is not necessary party.

Pune

*SRDargave*  
Advocate for the Applicant

Date: 05.02.2024

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*Naif 44*

Item No.1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (With Hybrid Option)]

**ORIGINAL APPLICATION NO.32 OF 2024 (WZ)**

Anuj Abhay Deshpande &amp; Ors.

.... Applicants

Versus

Pune Municipal Corporation &amp; Ors.

.... Respondents

Date of hearing: 08.02.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**Applicants : Ms. Supriya Dangare, Advocate along with Applicant  
Nos.1, 2 and 6Respondents : Mr. Rahul Garg, Advocate for R-1 – PMC along with  
Mr. Rajesh Bhutkar, Dy. Engineer, Water Supply  
Department, PMC**ORDER**

1. From the side of respondent No.1 – PMC, learned counsel Mr. Rahul Garg has appeared along with Mr. Rajesh Bhutkar, Dy. Engineer, PMC, to resist admission of this Original Application and it is brought to our notice by them that there were earlier two water tanks, which were being used but later on, the use thereof was discontinued for certain period and now under the Amrut Scheme of the Govt. of India, it has been considered that additional three new tanks at the same spot in place of earlier two are to be constructed.

2. From the side of the applicants, learned counsel Ms. Supriya Dangare has vehemently argued that although the permissions have been obtained by respondent No.1 – PMC from the relevant authorities for construction of the said tanks, that would lead to cutting of large number



of trees, which would have adverse impact on the environment. Hence, the construction of these tanks is being opposed.

3. Before admitting this Original Application, we direct respondent No.1 – PMC to file their reply giving the details and all facts related to this project by the next date, stating therein as to from which authorities permissions were obtained and what consideration was made in this regard, particularly in respect of the site selection. A week's time is allowed for the same.

4. We direct the learned counsel for the applicants to provide copy of the Original Application and annexures thereto to the learned counsel for respondent No.1 – PMC today by e-mail.

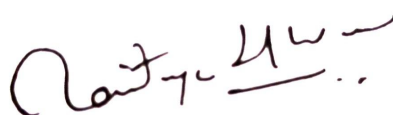
5. Put up this matter for next consideration on 19.02.2024.

**Dinesh Kumar Singh, JM**

**Dr. Vijay Kulkarni, EM**

February 8, 2024  
O.A. No.32/2024 (WZ)  
npj

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH**

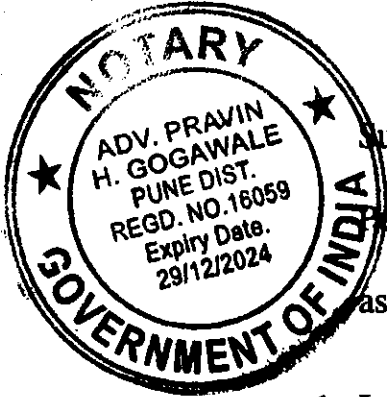
**ORIGINAL APPLICATION No. 32 of 2024 (WZ)**

Anuj Abhay Deshpande & Ors. ....Applicant

Versus

The Pune Municipal Corporation & Anr. ....Respondents

**Affidavit on behalf of Respondent No. 1 Pune Municipal Corporation**



I, Shrikant Sudam Waydande, Age: 56 years, Superintendent Engineer, Water Supply Projects Division, Pune Municipal Corporation, do state on solemn affirmation as under:

1. It is submitted that I am working as Superintending Engineer, Water Supply Project Division in Pune Municipal Corporation (Henceforth referred as "PMC" for the sake of brevity) and I am authorized to file an affidavit before the Hon'ble National Green Tribunal on behalf of Respondent No. 1, the PMC and this affidavit has been prepared on the

basis of information given to me and documents made available to me.

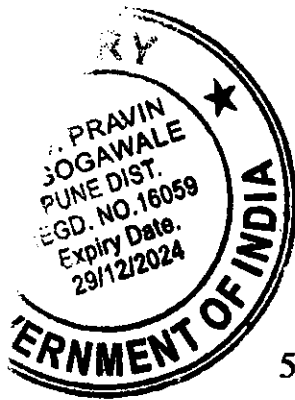
2. At the outset I deny all the contentions and/or statements and/or allegations contained in the present Original Application to the extent those are contrary to and/or inconsistent with what is stated in the present Affidavit. Nothing contained in the Original Application should deem to be admitted by the answering Respondent for the want of specific traverse unless the same would be specifically admitted herein below. I crave leave of this Hon'ble Tribunal to file an additional Affidavit as and when the occasion so arises.
3. It is submitted that we are filing this Reply Affidavit for the purpose of opposing this Original Application at the stage of Admission.
4. It is submitted that the Applicants in the present Original Application are seeking prayers as given below,



*a) The Respondent No.1 may kindly be directed to change the location of the construction of water tanks considering the environmental damage.*

*b) The Respondent No.1 may kindly be directed to stop the work with immediate effect as the same may cause irreparable damage to the citizens of Pune City till the present Application is finally decided.*

*c) Any other just and equitable order in the interest of justice may kindly be passed.*

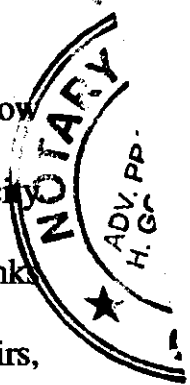


5. Need for Construction of New Water Reservoirs at Gut No. 262, Fergusson College Hill: -

- a. Water Supply is a mandatory duty of PMC under Maharashtra Municipal Corporation Act, 1949.
- b. Water Supply Project Consultant M/s. S.G.I. prepared and submitted the Water Supply Scheme for Pune City to Pune Municipal Corporation in the form of Detailed Project Report (DPR) based on the population projection till year 2047. PMC approved the DPR vide resolution No. 60 dated 22/05/2015. The said

revamping project have been divided into construction of Water tanks and laying of transmission lines, laying distribution pipelines, modern AMR meters etc. based on the zones coming under various water treatment plants and tenders have been invited accordingly. As far as the construction of water tanks is concerned the expenditure has been shared by Central and State government under Amrut Scheme.

- c. Pune city is geographically divided into high and low areas because of its saucer type shape of city topography. Due to lower number of water tanks leading to insufficient capacity of storage reservoirs, PMC cannot achieve the objectives of equitable water supply within the city area causing many complaints about low pressure water supply and interrupted water supply etc. Also due to old and longer water lines in some parts of the city, the water consumption is high and there are also complaints of polluted water. So, PMC has considered laying new water lines and



carrying out metering throughout the city to carry out water audit.

- d. As a solution to the above problems, PMC has planned to implement the water supply project for revamping the entire distribution system. The city area has been divided into 141 water zones. Zones will receive water through the dedicated water tanks with flow and pressure in the network prescribed in Amrut Scheme guidelines. PMC consultant has used software for the hydraulic analysis of this revamping project. Thus, the water demand and supply to each of the water zones is completely based on the projected population ranging from 2022 to 2042. The objectives of this revamping project are as follows.

- I. To conduct a thorough study of all existing water supply systems and the entire water supply network Design using the latest computer software.



- II. Construction of water tanks to increase storage capacity as required.
- III. Laying of required pressure pipes for supplying water tanks.
- IV. Shutting off old water lines flowing through streets and laying new water lines as required.
- V. 100% replacement of domestic connection water pipes and installation of smart meters with latest technology.
- VI. Construction of new pumping stations at 5 locations in the city, replacement of old pumps and installation of up-to-date automatic systems.
- VII. Construction of Customer Convenience Centre, setting up test bench for meter testing.
- VIII. There are 3 new water tanks newly proposed at Bhamburda (Shivajinagar) Gut No. 262 Ferguson College Hill. therefore, SR was of stone masonry and dilapidated and out of engineering service and therefore it has been



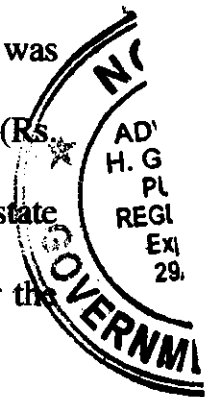
planned to demolish it and construct the new concrete reservoirs in series to cater the need of water demand considering the population ranging from 2022 to 2042. These newly proposed 3 reservoirs will cater to the need of water demand of three water zones such as 1) Modern college zone, 2) BMCC zone, 3) Ferguson college zone.




Sr.No.	Zone Name	Proposed Water Tank	Population 2022	Demand 2022 in ML	Population 2032	Demand 2032 in ML	Population 2047	Demand 2047 in ML	Tank Capacity in ML (@ 1/3 rd of Demand)
1	BMCC	FC proposed ESR-1	6632	2.02	14458	4.39	15920	5.12	2
2	Modern college	FC proposed GSR	49443	15.08	107785	32.7	118685	38.17	13
3	Ferguson College	FC proposed ESR-2	10722	3.27	23373	7.26	36412	9.83	3.5
			<b>Total Demand in ML</b>	<b>20.37</b>		<b>44.35</b>		<b>53.12</b>	<b>18.5</b>



- e. The water demand is based on the various land uses as per the provisions made in the City Development Plan such as commercial use, education use, hospital use, residential use, slums, non-revenue water, losses etc and other urban users in coming in these zones.
- f. The estimated amount of water tank construction was Rs. 235.95 crores, out of which 50% subsidy (Rs. 117.97 Crores) has been sanctioned by the state Government for the work of the said tanks under the Amrut Scheme.
- g. The 2 old water tanks were constructed around 50 years ago when SNTD water tanks and pumping were not in existence. Earlier the pure water was supplied from Parvati Water Treatment Plant to Aryabhushan pumping station at FC Road and from there it was pumped to these water tanks on FC Hill to supply water by using the force of gravity. After the construction of tanks SNTD this water supply scheme was stopped. Since then, these 2 water tanks were not in use. The

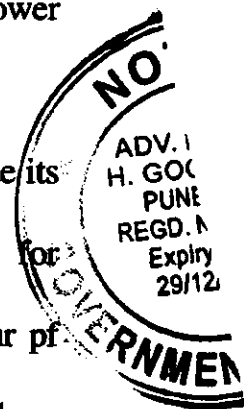


water tank structure was built in stone masonry and now as per govt. norms those are unusable/ out of engineering service structures having their age more than 50 years. Also, their capacities are insufficient. Therefore, PMC has decided to demolish them and construct new water tanks as per the revised demand of growing population of Pune.

- 
- h. The construction of Water Storage Tanks at Gut No. 262, Fergusson College Hill will save a lot of energy consumption that would be required for direct Water Distribution through pipelines spread over about 8.5 sq. km. area within Pune city as Hill has a height and therefore there will be benefit of gravitation force.
  - i. Engineering analysis has been carried out for satisfying the water demand of population from 2022 to 2047 and accordingly the highest location is selected to distribute water by gravity.
  - j. There is no other alternative piece of land suitable to construct these water reservoirs in order to cater water

in the water zones in the vicinity of this hill. The high altitude topographical position will help water distribution under gravity. Pumping of around 18.5 million liters of water per day over 8.5 sq.km. area, instead of building water tanks on hills will have a larger impact on environment due to huge power consumption.

6. Ministry of Environment, Forests & Climate Change vide its Order dated 30.9.2022 has granted its permission for Diversion of 0.7031 Ha. Reserved Forest land in favour of Water Supply Department, PMC for construction of three ground water reservoirs having capacity of 13 ML, 2 ML and 3.5 ML to supply drinking water to Shivajinagar Area, Pune.
7. It is submitted that the Hon'ble Supreme Court of India in its order dated 28/03/2018 in WP (Civil) No. 202 of 1995 T.N. Godvarman Thirumulpad vs Union of India & Ors. has exempted certain activities like Municipal Water Supply Projects, drinking water supply schemes in Forest lands.

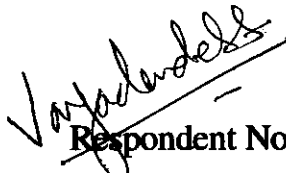


8. It is submitted that the issue in the Present OA has already been considered by this Hon'ble Tribunal in OA No. 46/2020 Dr. Sushma Date & Ors. VS. Pune Municipal Corporation & Ors. wherein construction of water tanks on Gut No. 262, Fergusson College Hills was in question. The Hon'ble Tribunal has held that *"it cannot be said that the construction of water tanks/allied activities on the lands in Law College Hill and Fergusson College Hill on the part of the 1<sup>st</sup> Respondent cannot be faulted"*.

9. It is therefore submitted that considering the increase in the population and water requirement up to the year 2047 in the city of Pune this project is very essential in the public interest and moreover all requisite permissions are obtained for the project and PMC shall be abiding by the conditions imposed by MOEFCC. In view of the above this Hon'ble Tribunal may please dismiss this OA.Pune

Date: 16.2.2024

  
Adv. For Respondent No. 1

  
Respondent No. 1

Shrikant S. Waydande  
अधिक्षक अभियंता  
पाणी पुरवठा प्रकल्प  
पुणे महानगरपालिका

**VERIFICATION**

I, Shrikant Sudam Waydande, Superintendent Engineer,  
Water Supply Projects Division, Pune Municipal Corporation, Pune,  
Age 56 Years, Office at: Shivajinagar, Pune – 411005, the  
authorized signatory for Respondent No. 1 PMC do hereby state on  
solemn affirmation that what is stated forgoing Paras is true and  
correct to my own knowledge and belief.

Solemnly affirmed at Pune

This 16<sup>th</sup> Day of February, 2024

Explained and Interpreted by me

*Waydande S.*  
Deponent

Shrikant S. Waydande  
अधिक्षक अभियंता  
पाणी पुरवठा प्रकल्प  
पुणे महानगरपालिका

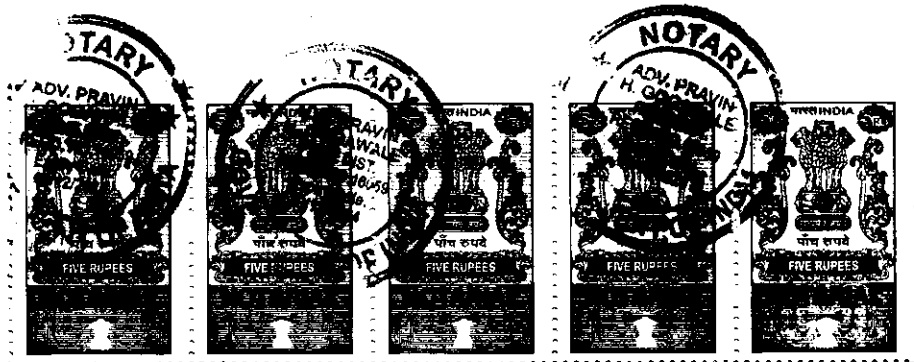
*Rgarg*  
Adv. For the Deponent

**BEFORE ME**

*[Signature]*  
ADV. PRAVIN H. GOGAWALE  
NOTARY GOVT. OF INDIA  
PUNE  
REGD. NO. 16059

NOTED AND REGISTERED  
SERIAL NUMBER 34/2024  
Date 16 FEB 2024

16 FEB 2024



12

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*[Signature]*

, ÆITEM NOS.301+302+303

COURT NO.1

SECTIONS PIL, IX

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

I.A.No.1768 IN W.P.(C)No.202/1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS  
(For Direction)

Respondent(s)

AND

I.A.Nos.2160-2161 in 1399 in W.P.(C)No.202/1995  
(for impleadment & directions)

I.A.NO.2185 in IA 728 in W.P.(C)No.202/1995  
(for directions)

WITH

I.A.Nos.2248-2249 in 1694 in 1994 in W.P.(C)No.202/1995  
(For direction and exemption from filing O.T.)

WITH

I.A.No.2134 IN W.P.(C)No.202/1995  
(For direction)

AND NPV MATTERS

I.A.Nos.826 in 566 with 955 in 566, 958, 985, 1001-1001A, 1013-1014, 1016-1018, 1019, 1046,

1047, 1164, 1180-1181, 1182-1183, 1196, 1208-1209, 1229, 1248-1249, 1253, 1301-1302, 1303-1304, 1313, 1314, 1318, 1319 in 1137, 1325, 1364, 1365-1366, 1370-1370A, 1371, 1384, 1435-1437, 1441 with 1634, 1475-1476, 1579, 1513, 1573, 1664, 1676, 1707, 1721, 1779 in 1164 in 566, 1785-1786 in IA 1441, 1980-1981, 1993, 2013, 2074-2076, 2077-2078 in 1441, 2230-2231, 2240-2241 in 1164, 2145-2146, 2147-2148, 2149-2150 & 2153-2154 in I.A.566 in W.P.(C) No.202/1995

1

(Recommendation of CEC in IA No.566 and application for modification of court's order/directions/permission to file appln. for modification/ impleadment/exemption from filing O.T./intervention/clarification of order and report/ recommendation of CEC/urgent listing of appln. and placing on record the accompanying affidavit and permission)

WITH I.A.No.1137 in 566 in W.P.(C) No.202/1995  
(For exemption from depositing NPV)

AND I.A.No.2245-2246 in W.P.(C) No.202/1995  
(For direction/clarification and interim stay)

W.P.(C)No.202/1995 e

tc.etc.

AND  
I.A.No.2247 in W.P.(C)No.202/1995  
(for directions/clarification)

AND  
I.A.No.2212 in W.P.(C)No.202/1995  
(for impleadment/directions)

WITH

2

I.A.No.2237-2238 in I.A.NO.1212 in W.P.(C)No.202/1995  
(for intervention and directions)

WITH  
I.A.No.2244 & 2254 in W.P.(C)No.202/1995  
(for directions)

AND  
I.A.No.2020 in 742-743 in W.P.(C)No.202/1995  
(for directions)

AND  
I.A.Nos. 3 and 4 in W.P.(C)No.314/2006  
(for directions and office report)

Contempt Petition (c)No.238/2007 in I.A.NOs.742-743 in W.P.(C)NO.202/1995  
(With appln.(s) for exemption from filing O.T. and c/delay in filing Contempt Petition)

I.A.Nos.12,55 &58-59 in SLP(C)No.13658/1996  
(For impleadment and directions)

I.A.Nos.1572 & 1578 in W.P.(C)No.202/1995  
(for permission to carry out the project work and bringing on record the addl.grounds and fact  
s)

AND  
I.A.Nos.2138-2139 in 891-892 in W.P.(C)No.202/1995  
(for impleadment & directions)

WITH  
I.A.Nos.2258-2260 & 2261-2263 in W.P.(C)NO.202/1995  
(For impleadment, direction and exemption from filing O.T.)

I.A.No.2167 in 1440 in 1413 in W.P.(C)NO.202/1995  
(for intervention/direction)

3

AND

I.A.Nos.2264-2267 & 2268-2271 in W.P.(C)NO.202/1995  
(For impleadment & directions, interim relief and exemption from filing O.T.)

WITH

I.A.No.2272 in 2212 in W.P.(C)NO.202/1995  
(For direction)

W.P.(C)No.202/1995 e

tc.etc.

Date: 09/05/2008 These Petitions/appln.s was/were called on for  
hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE Dr. JUSTICE ARIJIT PASAYAT  
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s) Mr. Harish N. Salve, Sr.Adv. (A.C.)  
Mr. Uday U. Lalit, Sr.Adv. (A.C.)(N.P.)  
Mr. Siddhartha Chowdhury, Adv. (A.C.)(NP)  
Mr.A.D.N.Rao, Adv.(A.C.)

Mr. P.K. Manohar, Adv.

In SLP(C)No.13658/96 Ms.Shakun Sharma, Adv.  
Ms.Rukhmini Bobde, Adv.

For Respondent(s)  
MoEF(UOI): Mr. G.E.Vahanvati, S.G.of India  
Mr.T.S.Doabia, Sr.Adv.  
Mr. Harris Beeran, Adv.  
Mrs.Rekha Pandey, Adv.

4

Ms.Alka Sharma, Adv.  
Mr.D.D.Kamat, Adv.  
Mr.A.Mariarputham,Adv.  
Mr. P. Parmeswaran, Adv.  
Miss Ambika Das, Adv.  
Mr.Sunil Roy, Adv.  
For Mr.D.S.Mahra, Adv.

I.A.No.2212 Mrs.Asha G.Nair, Adv.  
For Mr.D.S.Mahra, Adv.

SLP(C)No.13658/96 Mr.Anip Sachthey,Adv.  
Mr.Mohit Paul, Adv.  
in Mr.G.E.Vahanvati, Sol.Genl.of India



- SLP(C)NO.13658/96 Mr.Sanjay R.Hegde, Adv.  
Mr.A.Rohen Singh, Adv.  
Mr.Amit Kr.Chawla, Adv.
- I.A.Nos.2245-46 Mr.Manohar Lal Sharma, Adv.  
Mr.Rajgopal N., Adv.  
For Mr.Debasis Misra, Adv.
- In SLP(\*C)No.13658/96 Mr.Ranjit Kumar, Sr.Adv.  
Mr.Arvind Kr.Sharma, Adv.  
Mr.Saurabh Mishra, Adv.
- M/o.Defence Mr.S.W.A.Qadri, Adv.  
Mr.B.K.Prasad, Adv.
- I.A.No.2134 Mr.K.K.Venugopal, Sr.Adv.  
Ms.Anuradha Dutta, Adv.  
Ms.Vijayalakshmi Menon, Adv.
- W.P.(C)No.202/1995 etc.etc.
- 5
- Mr.Naveen Kr.Singh, Adv.  
Mr.Shashwat Gupta, Adv.  
For Mr.Aruneshwar Gupta, AAG
- I.A.985&1016-18 in Mr.Sunil Dogra, Adv.  
566 Mr.S.U.K.Sagar, Adv.  
Ms.Bina Madhavan, Adv.  
For M/s.Lawyers' Knit & Co., Adv.
- I.A.Nos.1707,932 in Mr.Mukul Rohtagi, Sr.Adv.  
819-832 & 1710-12 Mr.Ajay Sharma, Adv.  
Ms.Tasleem Ahmadi, Adv.
- I.A.Nos.1572&1578 Mr.R.S.Jena, Adv.
- Ms.Nidhi Minocha, Adv.  
Mr.Adesh Sharma, Adv.  
Mr.Rajesh Srivastava, Adv.
- IA 1980-81: Mr. Anurag Sharma, Adv.  
Ms. Ratna Kaul, Adv.  
Mr. Prashant Kumar, Adv.  
for M/s. APJ Chambers, Adv.
- IA 826: Mr. Manjit Singh, Adv.  
Mr. T.V. George, Adv.
- IA 1993: Mr. Dhruv Mehta, Adv.  
Mr. Harshvardhan Jha, Mr.Yashraj S. Deora,  
Gulshan Sharma, Adv.  
for M/s. K.L.Mehta & Co., Adv.
- W.P.(C)NO.314/2006 Mr.P.S.Patwalia, Sr.Adv.

Mr.Satinder S.Gulati, Adv.

6

Mrs.Kamaldeep Gulati, Adv.  
Mr.Amanpreet Singh Rahi, Adv.

I.A.No.2213 Mr.M.L.Lahoty, Adv.(in person)

I.A.Nos.2074-76 Mr. Vikas Mahajan, Adv.  
Mr. D.B. Vohra, Adv.

IA 1000: Ms. Aruna Gupta, Adv.  
Ms. Sumita Hazarika, Adv.

IA 1435-37: Mr. S.C.Patel, Adv.

IA 1676 & 1721 in 566:Mr. Altaf Ahmed, Sr.Adv.  
Mr.P.Parmeswaran, Adv.

IA 1248-49: Mr. V.A. Mohta, Sr.Adv.  
Mr. J.T. Gilda, Adv.  
Mr. Manish Pitale, Adv.  
For Mr. C.S.Ashri, Adv.

W.P.(C)No.202/1995 etc.etc.

I.A.No.2013 in 566 Mr.Neeraj Malhotra, Adv.  
Mr.Nikhil Nayyar, Adv.  
Mr.Ankit Singhal, Adv.  
Mr.T.V.S.Raghavendra Sreyas, Adv.

IA 2240-41: Mr. S.B. Upadhyay, Sr.Adv.  
Ms. Anisha Upadhyay, Adv.  
Mr. Shiv Mangal Sharma, Adv.  
For Mrs. Sharmila Upadhyay, Adv.

I.A.No.1779 Mr.S.B.Upadhyay, Sr.Adv.  
Mr.Rajesh R.Dubey, Adv.  
Mr.Santosh Mishra, Adv.  
Ms.Anisha Upadhyay, Adv.

Mr.C.P.Sharma, Adv.  
Mrs.Geeta Sharma, Adv.  
Mr.Santosh Singh, Adv.

State of MP: Mr. B.S.Banthia, Adv.  
Mr.Vikas Upadhyay, Adv.

I.A.Nos.2258-60, Mr.Ranjit Kumar, Sr.Adv.  
2261-63 Mr.Vivek Gupta, Adv.

7

Mr.Saket Agarwal, Adv.

I.A.Nos.891-892 in  
2138-2139

Mr.Mukul Rohtagi, Sr.Adv.  
Mr.Ashish Dholakia, Adv.  
Mr.Adarsh Priyadarshini, Adv.  
Ms.Sumita Hazarika, Adv.

I.A.No.1196 in  
1046 in 566

Mr.S.Sukumaran, Adv.  
Mr.Rajesh, Adv.  
For Mr.K.Rajeev, Adv.

I.A.Nos.2264-2267,  
2268-2271

Dr.Rajiv Dhavan, Sr.Adv.  
Ms.Aruna Gupta, Adv.

I.A.No.2020

Ms.Aruna Gupta, Adv.  
Ms.Sumita Hazarika, Adv.

Con.Pet.238

Mr.Dhruv Mehta, Adv.  
Ms.Aruna Gupta, Adv.  
Ms.Sumita Hazarika, Adv.

8

I.A.No.1164

Dr.Rajeev Dhawan, Sr.Adv.  
Mr.Ajit Pudussery, Adv.

in IA 1137:

Mr. A.V. Savant, Sr.Adv.  
Mr. G.Prakash, Adv.

Mr.Mukul Rohtagi, Sr.Adv.  
Mr.Umapathy, Adv.  
Mr.N.M.Popli, Adv.  
Mrs. Asha G. Nair, Adv.

W.P.(C)No.202/1995 etc.etc.

State of Goa:

Ms. A.Subhashini, Adv.

Mr. Anil Kr. Jha, Adv.

Mrs.Rani Chhabra, Adv.

M/s.Khaitan & Co., Advs.

I.A.Nos.2230-31

Mr. Sanjay R. Hegde, Adv.  
Mr. A.Rohen Singh, Adv.  
Mr. Amit Kr. Chawla, Adv.

St. of Manipur:

Mr. KH. Nobin Singh, Adv.

State of Assam:

Ms. Momta Oinam, Adv.  
for M/s. Corporate Law Group, Advs.

State of Mizoram: Mr. K.N. Madhusoodhanan, Adv.  
Mr. R.Sathish, Adv.

9

St.of Al.Pradesh: Mr. Anil Shrivastav, Adv.  
Mr. Ritu Raj, Adv.

Mr.Gopal Singh, Adv.

Mr.Harish Kumar Puri, Adv.

Ms.Anil Katiyar, Adv.

Mr.T.V.George, Adv.

Mr.Abhijat P.Medh, Adv.

Mr.Anil Nag, Adv.

Mr.Naresh Kumar, Adv.  
Mr.A.K.Sinha, Adv.

Mr.Chiarg M.Shroff, Adv.

Mr.Ajay Pal, Adv.

I.A.No.2134,253,1371& Mr.Raj Kumar Mehta, Adv.  
1664 Ms.Mragank, Adv.  
Mr.Nalini Pal, Adv.

I.A.Nos.1253,1371, Mr.Raj Kumar Mehta, Adv.  
1664 Mr.Mragank,Adv.  
Ms.Nalini Pal, Adv.

I.A.No.2212 Mr.Vishnu B.Saharya, Adv.  
For M/s.Saharya &Co., Adv.

10

W.P.(C)No.202/1995 etc.etc.

Mr. B.P. Singh, Adv.

Mr. Sanjeev Kumar, Adv.

Ms. Sarla Chandra, Adv.

Mr. Mukesh K. Giri, Adv.

Mr. Ajit Kr. Sinha, Adv.

Mr. Ambhoj Kr. Sinha, Adv.

Mr. Himinder Lal, Adv.

Mr. Anis Suhrawardy, Adv.

I.A.Nos.2145-54 in  
566

Mr. V.B. Joshi, Adv.  
Mr. Kailash Pandey, Adv.

I.A.No.2257 in 1093

Mr. Mukul Rohtagi, Sr. Adv.  
Ms. Tasleem Ahmadi, Adv.  
Mr. Ajay Sharma, Adv.  
Ms. Shuchi Singh, Adv.

I.A.No.2247

Mr. Anil Diwan, Sr. Adv.  
Mr. K.V. Viswnathan, Adv.  
Mr. B. Raghunath, Adv.  
Mr. Vijay Kumar, Adv.

I.A.Nos.891-892

Dr. Rajeev Dhawan, Sr. Adv.

11

Mr. Jayant Mohan, Adv.  
Mr. Rahul Pratap, Adv.  
For Dr. Kailash Chand, Adv.

I.A.No.2237-38 Mr. Vijay Panjwani, Adv.

I.A.Nos.1435-1437  
In IA 56

Mr. Pallav Sisodia, Adv.  
Mr. R.A. Malandar, Adv.  
Mr. S.C. Patel, Ad.  
Mr. Subhashish Bhowmick, Adv.  
Mr. Tajas Patel, Adv.

I.A.No.1768

Mr. Mukul Rohtagi, Sr. Adv.  
Mr. Akhil Sibal, Adv.  
Mr. Krishna, Adv.  
Mr. R.N. Karanjawala, Adv.  
Mrs. Manik Karanjawala, Adv.  
Ms. Nandini Gore, Adv.  
Mr. Debmalya Banerjee, Adv.  
Ms. Sonia Nigam, Adv.

I.A.Nos.12&55&  
58-59

Mr. Mukul Rohtagi, Sr. Adv.  
Mrs. Hemantika Wahi, Adv.  
Ms. Pinky, Adv.  
Ms. Jesal, Adv.

I.A.No.826 Mrs.Hemantika Wahi, Adv.  
Ms.Pinky, Adv.  
Ms.Jesal, Adv.

I.A.No.2212 Mr.A.Sharan, ASG  
Mr.Vishnu B.Saharya, Adv.

12

For M/s.Saharya & Co., Adv.

I.A.No.1707 Mr.Mukul Rohtagi, Sr.Adv.  
Ms.Tasneem Ahmadi, Adv.  
Mr.Ajay Sharma, Adv.

UPON hearing counsel the Court made the following  
ORDER

I.A.No.1768 IN W.P.(C)No.202/1995:

Post along with I.A.No.2164 on 25.7.2008.

I.A.Nos.2160-2161 in 1399 in W.P.(C)No.202/1995 &  
I.A.NO.2185 in IA 728 in W.P.(C)No.202/1995 &  
I.A.Nos.2248-2249 in 1694 in W.P.(C)No.202/1995:

List on 16.5.2008.

I.A.No.2134 IN W.P.(C)No.202/1995:

List on 16.5.2008.

#### NPV MATTERS

I.A.Nos.826 in 566 with 955 in 566, 958, 985, 1001-1001A, 1013-1014, 1016-1018, 1019, 1046, 1047, 1164, 1180-1181, 1182-1183, 1196, 1208-1209, 1229, 1248-1249, 1253, 1301-1302, 1303-1304, 1313, 1314, 1318, 1319 in 1137, 1325, 1364, 1365-1366, 1370-1370A, 1371, 1384, 1435-1437, 1441 with 1634, 1475-1476, 1579, 1513, 1573, 1664, 1676, 1707, 1721, 1779 in 1164 in 566, 1785-1786 in IA 1441, 1980-1981, 1993, 2013, 2074-2076, 2077-2078 in 1441, 2230-2231, 2240-2241 in 1164, 2147-2148, 2149-2150 & 2153-2154 in I.A.566 in W.P.(C) No.202/1995

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List the Public Utility Project matters, Hydel and Irrigation Projects matters,

Construction of road on acquired land matter, transmission lines matters, Hydro Electric Power Projects matters, Mining in the same sequence on 18.7.2008.

The order dated 28.3.2008 is corrected as recorded separately.

W.P.(C)No.202/1995 e

tc.etc.

I.A.Nos.2145-46:

These applications have been filed by the National Highway Authority of India seeking permission for use of 4.924 ha. of forest land falling in Balaram-Ambaji Wildlife Sanctuary for the

widening of NH-14 on Palanpur-Swaroopganj Section in the State of Gujarat. The C.E.C. has

examined the project and recommended the same subject to acceptance of the following

conditions :

1. the conditions imposed by the Chief Wildlife Warden and the Standing Committee of the

National Board of Wildlife will be strictly complied with;

2. 5% of the project cost of the Palanpur-Swaroopganj Section i.e.Rs.8.255 crores, will be

14 provided for conservation and protection measures in the sanctuary. This will included

the amount required to be spent on mitigative measures proposed by the Chief wildlife

Warden/Standing Committee of the NBWL;

3. no labour camps will be established within the sanctuary;

4. no construction material will be left in the sanctuary;

5. the material for the construction will be obtained from non-forest area falling outside the

sanctuary; and

6. for use of forest land, approval under the F.C.Act will be obtained.

Learned counsel for the applicant stated that the conditions are acceptable. Subject to the fulfillment of the above conditions, this project is cleared.

I.A.s are disposed of accordingly.

W.P.(C)No.202/199

5 etc.etc.

I.A.Nos.2245-46:

Issue notice to C.E.C. C.E.C. to file its comments within four weeks.

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List on 18.7.2008.

I.A.No.2247 in W.P.(C)No.202/1995:

Issue notice to C.E.C.. C.E.C. to file its comments within four weeks.  
The interim stay granted by the High Court of Judicature at Madras on 24.4.2008 is

extended until further orders, considering the fact that the applicant is a hundred year old club.

List on 8.8.2008.

I.A.No.2272 in W.P.(C)NO.202/1995:

Issue notice to all the respondents.

Commonwealth Games Authority/Committee be impleaded as a party respondent no.4.

Issue notice to newly impleaded respondent. Mr.Saharya, advocate accepts notice on

behalf of the 4 respondent.

Parties on either side will file additional documents with copy to the other side.

List on 16.5.2008.

I.A.No.2212 in W.P.(C)No.202/1995:



List on 16.5.2008.

I.A.No.2237-2238 in I.A.NO.2212 in W.P.(C)No.202/1995:

Issue notice.

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To be listed along with I.A.NO.2212 on 16.5.2008.

I.A.No.2244 in W.P.(C)No.202/1995:

Let comments of C.E.C. be filed within four weeks.

c.etc.

W.P.(C)No.202/1995 et

I.A.No.2254 in W.P.(C)No.202/1995:

List along with the U.P.Saw Mill Matters.

I.A.Nos. 3 and 4 in W.P.(C)No.314/2006:

Comments of C.E.C. be filed within four weeks.

List after re-opening after summer vacation.

Contempt Petition (c)No.238/2007 in I.A.NOs.742-743 in W.P.(C)NO.202/1995 &:  
I.A.No.2020 in 742-743 in W.P.(C)No.202/1995:

As requested, adjourned.

I.A.Nos.12,55 &58-59 in SLP(C)No.13658/1996:

These applications have been filed by the applicants to undertake mining activities i  
n

the State of Gujarat. An objection was raised to the effect that these are nearer to the sanct  
uary

area of Narayan Sarovar sanctuary in the State of Gujarat. The applicants pointed out that it  
is

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beyond the 2.5 kms. of the boundary area of the sanctuary. The State Government will ascertain this fact and we grant permission only if it is beyond the 2.5 kms. of boundary area of the sanctuary. This direction regarding distance is subject to final orders to be passed later

in the Buffer Zone matter.

I.A.s are disposed of accordingly.

List the connected I.A.s after 12 weeks.

I.A.Nos.1572 & 1578 in W.P.(C)No.202/1995:

List on 1.8.2008.

I.A.Nos.2138-2139 in 891-892 & I.A.1488 in 891-92 in W.P.(C)No.202/1995:

A copy of the applications be given to learned Amicus Curiae.

Comments of C.E.C. be filed within four weeks.

List on 1.8.2008.

W.P.(C)No.202/1995 et

c.etc.

I.A.Nos.2258-2260 & 2261-2263 in W.P.(C)NO.202/1995:

Issue notice to C.E.C. C.E.C. to file its comments within four weeks.

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List on 1.8.2008.

I.A.No.2167 in 1440 in 1413 in W.P.(C)NO.202/1995:

Learned senior counsel for the applicant stated that the applicant is ready to pay NP

V

for the entire area of 206.652 ha. of land. Whatever payment has been made, may be adjusted towards NPV and the MoEF would take a decision on the revised stand on the basis of the changed circumstances within four weeks.

List on 25.7.2008.

I.A.Nos.2264-2267 & 2268-2271 in W.P.(C)NO.202/1995:

Issue notice to C.E.C.

List on 16.5.2008.

Meanwhile, C.E.C. to file its comments, if any.

I.A.No.2257 in I.A.No.1093 in W.P.(C)No.202/1995:

Taken on board.

Recommendation of C.E.C. dated 5 May, 2008<sup>th</sup> be treated as I.A.

Learned senior counsel appearing for the Power Grid Corporation of India Ltd. (PGCIL)

has submitted that 0.8694 ha. of forest land falling in the Peechi Vazani Wildlife Sanctuary, Kerala

is required for relocation of one damaged tower of 400 KV double circuit Udumalpet-

19  
Trichur transmission line. The C.E.C. has examined the proposal and has recommended the

same subject to the following conditions :

W.P.(C)No.202/1995 et  
c.etc.

1. for use of forest land approval under the Forest (Conservation) Act, will be obtained;
2. felling of trees will be kept to the minimum possible;
3. the condition imposed by the Chief Wildlife Warden will be strictly complied; and

4. the NPV at the prescribed rate for the forest land falling within the sanctuary as well as

outside the sanctuary will be deposited by the user agency.

Learned senior counsel appearing for the applicant submitted that these conditions are acceptable to them. Permission for the project is granted, subject to fulfillment of the above conditions.

I.A. is disposed of accordingly.

(G.V.Ramana)  
Court Master

(Veera Verma)  
Court Master

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(signed reportable order is placed on the file)

ITEM NO.MM-B

COURT NO.1

21  
SECTION PIL

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

I.A.Nos.1519-20 in I.A.No.1429 in WRIT PETITION (CIVIL) NO(s). 202  
OF 1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

Date: 09/05/2008 These applications were mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE DR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s) Mr. P.K. Manohar, Adv.

For Respondent(s)/ Mr. Tara Chandra Sharma, Adv. (Mentioned by)  
applicant(s)

UPON hearing counsel the Court made the following

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ORDER

List on 25.7.2008.

(G.V.Ramana)	(Veera Verma)
Court Master	Court Master
(Mentioned slip enclosed)	

23

ITEM NO.MM-C	COURT NO.1	SECTION PIL
--------------	------------	-------------

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

I.A.No.1681 in WRIT PETITION (CIVIL) NO(s). 202 OF 1995

T.N. GODAVARMAN THIRUMULPAD	Petitioner(s)
-----------------------------	---------------

VERSUS

UNION OF INDIA & ORS	Respondent(s)
----------------------	---------------

Date: 09/05/2008 These applications were mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
 HON'BLE DR. JUSTICE ARIJIT PASAYAT  
 HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s) Mr. P.K. Manohar, Adv.

For Respondent(s)/ Mr.P.S.Patwalia, Sr.Adv.(Mentioned by)  
 applicant(s) Mr.Jagjit Singh Chhabra, Adv.

UPON hearing counsel the Court made the following  
 ORDER

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List in July, 2008.

(G.V.Ramana) (Veera Verma)  
 Court Master Court Master  
 (Mentioned slip enclosed)

25

ITEM NO.MM-D COURT NO.1 SECTION PIL

SUPREME COURT OF INDIA  
 RECORD OF PROCEEDINGS

I.A.Nos.2250-2251 in WRIT PETITION (CIVIL) NO(s). 202 OF 1995

T.N. GODAVARMAN THIRUMULPAD Petitioner(s)

VERSUS

UNION OF INDIA & ORS Respondent(s)

Date: 09/05/2008 These applications were mentioned today.

CORAM :  
 HON'BLE THE CHIEF JUSTICE  
 HON'BLE DR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s) Mr. P.K. Manohar, Adv.

For Respondent(s)/ Mr.Vikas Upadhyay, Adv.(Mentioned by)  
applicant(s) for Mr.B.S.Banthia, Adv.

UPON hearing counsel the Court made the following  
ORDER

List in July, 2008.

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(G.V.Ramana) (Veera Verma)  
Court Master Court Master  
(Mentioned slip enclosed)

ITEM NO.MM-E COURT NO.1 SECTION PIL

27

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

I.A.Nos.2252-2253 in WRIT PETITION (CIVIL) NO(s). 202 OF 1995

T.N. GODAVARMAN THIRUMULPAD Petitioner(s)

VERSUS

UNION OF INDIA & ORS Respondent(s)

Date: 09/05/2008 These applications were mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE DR. JUSTICE ARIJIT PASAYAT  
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s) Mr. P.K. Manohar, Adv.

For Respondent(s)/ Mr. Vikas Upadhyay, Adv. (Mentioned by)  
applicant(s) for Mr. B.S. Banthia, Adv.

UPON hearing counsel the Court made the following  
ORDER

List in July, 2008.

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(G.V. Ramana)  
Court Master  
(Mentioned slip enclosed)

(Veera Verma)  
Court Master

ITEM NO. MM-G

COURT NO. 1

SECTION PIL

29

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

I.A. Nos. 2276 in 548 in WRIT PETITION (CIVIL) NO(s). 202 OF 1995

T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

Date: 09/05/2008 These applications were mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE DR. JUSTICE ARIJIT PASAYAT  
HON'BLE MR. JUSTICE S.H. KAPADIA



For Petitioner(s) Mr. P.K. Manohar, Adv.

For Respondent(s)/  
applicant(s) Mr. Vikas Upadhyay, Adv. (Mentioned by)  
for Mr. B.S. Banthia, Adv.

UPON hearing counsel the Court made the following  
ORDER

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List in July, 2008.

(G.V. Ramana)  
Court Master  
(Mentioned slip enclosed)

(Veera Verma)  
Court Master

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*Qant 7-11-08*

# ANNEXURE A-6

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## National Green Tribunal



### Case Details

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Party Name	ANUJ ABHAY DESHPANDE VS PUNE MUNICIPAL CORPORATION		
Petitioner Advocate(s)	SUPRIYA DANGARE	Respondent Advocate(s)	
Act	ENVIRONMENT (PROTECTION) ACT, 1986		
Case Number	Original Application No. 32/2024	Registered On	05-02-2024
Last Listed	22-02-2024		
Case Status	DISPOSED		

[All Parties](#)

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S.No.	Date of Listing	Date of Upload	Coram	Order/Judgement.
1	22-02-2024		Mr. Justice Dinesh Kumar Singh Dr. Vijay Kulkarni	
2	22-02-2024	02-04-2024	Mr. Justice Dinesh Kumar Singh Dr. Vijay Kulkarni	

Date Wise

Case Number

Party Name

Judges/Member



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National Green Tribunal

Faridkot House, Copernicus Marg, New Delhi-110001

011-23043528, 011-23043521, FAX-011-23077931

Email: [publicgrievance-ngt@gov.in](mailto:publicgrievance-ngt@gov.in), [admin@ngt.nic.in](mailto:admin@ngt.nic.in)

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PETITIONER:  
VELLORE CITIZENS WELFARE FORUM

Vs.

RESPONDENT:  
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 28/08/1996

BENCH:  
KULDIP SINGH, FAIZAN UDDIN, K. VENKATASWAMI

ACT:

HEADNOTE:

JUDGMENT:

THE 28TH DAY OF AUGUST, 1996

Present:

Hon'ble Mr. Justice Kuldip Singh  
Hon'ble Mr. Justice Faizan Uddin  
Hon'ble Mr. Justice K. Venkataswami

R. Mohan, V.A. Bobde, Kapil Sibal, M.R. Sharma,  
V.C. Mahajan, and S.S. Ray, Sr. Advs., K.R.R. Pillai,  
M.C. Mehta, Ms. Seema Midha, V.G. Pragasam, Vijay Panjwani,  
S. Sukumaran, Sudhir Walia, A.T.M. Sampath,  
M.S. Dahiya, (Sudhir Walia, Roy Abraham, Advs. for Sm. Baby  
Krishna, P. Sukumar, Praveen Kumar, Romesh C. Pathak  
M.A. Krishnamurthy, V. Krishnamurthy, Mrs. Anil Katiyar,  
Ms. Indra Sawhney, Deepak Diwan, S.M. Jadhev, A.V. Rangam,  
Zafarullah Khan, Shahid Rizvi, Shakil Ahmed Syed, Jaideep  
Gupta and Sanjay Hegde, Advs. with them for the appearing  
parties.

J U D G M E N T

The following Judgment of the Court was delivered:

J U D G M E N T

Kuldip Singh, J..

This petition - public interest - under Article 32 of the Constitution of India has been filed by Vellore Citizens Welfare Forum and is directed against the pollution which is being caused by enormous discharge of untreated effluent by the tanneries and other industries in the State of Tamil Nadu. It is stated that the tanneries are discharging untreated effluent into agricultural fields to, road-Sides, Water ways and open lands. The untreated effluent is finally discharged in river Palar which is the main source of water supply to the residents of the area. According to the petitioner the entire surface and sub-soil water of river Palar has been polluted resulting in non availability Potable water to the residents of the area. It is stated that the tanneries in the State of Tamil Nadu have caused environmental degradation in the area. According to the preliminary survey made by the Tamil Nadu Agricultural University Research Center Vellore nearly 35,000 hectares of agricultural land in the Tanneries Belt, has become either partially or totally unfit for cultivation. It has been further stated in the petition that the tanneries use about

170 types of chemicals in the chrome tanning processes. The said chemicals include sodium chloride, lime, sodium sulphate, chlorium sulphate, fat liquor Amonia and sulphuric acid besides dyes which are used in large quantities. Nearly 35 litres of water is used for processing one kilogram of finished leather, resulting in dangerously enormous quantities of toxic effluents being let out in the open by the tanning industry. These effluents have spoiled the physico-chemical properties of the soil, and have contaminated ground water by percolation. According to the petitioner an independent survey conducted by Peace Members, a non governmental organisation, covering 13 villages of Dindigal and Peddiar Chatram Anchayat Unions, reveals that 350 wells out of total of 467 used for drinking and irrigation purposes have been polluted. Women and children have to walk miles to get drinking water. Legal Aid and Advice Board of Tamil Nadu requested two lawyers namely, M.R, Ramanan and P.S. Subramaniam to visit the area and submit a report indicating the extent of pollution caused by the tanneries. Relevant part of the report is as under :

"As per the Technical Report dated 28.5.1983 of the Hydrological Investigations carried out in Solur village near Ambur it was noticed that 176 chemicals including acids were contained in the Tannery effluents. If 40 litres of water with chemicals are required for one Kilo of Leather, with the production of 200 tons of leather per day at present and likely to be increased multifold in the next four to five years with the springing up of more tanneries like mushroom in and around Ambur Town, the magnitude of the effluent water used with chemicals and acids let out daily can be shockingly imagined. .... The effluents are let out from the tanneries in the nearby lands, then to Goodar and Palar rivers. The lands, the rivulet and the river receive the effluents containing toxic chemicals and acids. The sub soil water is polluted ultimately affecting not only arable lands, wells used for agriculture but also drinking water wells. The entire Ambur Town and the villages situated nearby do not have good drinking water. Some of the influential and rich people are able to get drinking water from a far off place connected by a few pipes. During rainy days and floods, the chemicals deposited into the rivers and lands spread out quickly to other lands. The effluents thus let out, affect cultivation, either crops do not come up at all or if produced the yield is reduced abnormally too low. .... The Tanners have come to stay. The industry is a

Foreign Exchange Earner. But one moot point is whether all the cost of the lives of lakhs of people with increasing human population the activities of the tanneries should be encouraged on monetary considerations. We find that the tanners have absolutely no regard for the healthy environment in and around their tanneries. The effluents discharged have been stored like a pond openly in the most of the places adjacent to cultivable lands with easy access for the animals and the people. The Ambur Municipality, which can exercise its powers as per the provisions of the Madras District Municipalities Act (1920) more particularly under Sections 226 to 231, 249 to 253 and 338 to 342 seems to be a silent spectator probably it does not want to antagonise the highly influential and stupendously rich tanners. The powers given under Section 63 of the Water Prevention and Control of Pollution Act 1974 (6 of 1974) have not been exercised in the case of tanneries in Ambur and the surrounding areas."

Alongwith the affidavit dated July 21, 1992 filed by Deputy Secretary to Government, Environment and Forests Department of Tamil Nadu, a list of villages affected by the tanneries has been attached. The list mentions 59 villages in the three Divisions of Thirupathur, Vellore and Ranipath. There is acute shortage of drinking water in these 59 villages and as such alternative arrangements were being made by the Government for the supply of drinking water.

In the affidavit dated January 9, 1992 filed by Member Secretary, Tamil Nadu Pollution Control Board (the board), it has been stated as under :

"It is submitted that there are 584 tanneries in North Arcot Ambedkar District vide annexure 'A' and 'D'. Out of which 443 Tanneries have applied for consent of the Board. The Government were concerned with the treatment and disposal of effluent from tanneries. The Government gave time upto 31.7.1985 to tanneries to put up Effluent Treatment Plant (E.T.P.). So far 33 tanneries in North Arcot Ambedkar District have put up Effluent Treatment Plant. The Board has stipulated standards for the effluent to be disposed by the tanneries."

The affidavits filed on behalf of State of Tamil Nadu and the Board clearly indicate that the tanneries and other polluting industries in the State of Tamil Nadu are being persuaded for the last about 10 years to control the pollution generated by them. They were given option either to construct common effluent treatment plants for a cluster

of industries or to set up individual pollution control devices. The Central Government agreed to give substantial subsidy for the construction of common effluent treatment plants (CETPs). It is a pity that till date most of the tanneries operating in the State of Tamil Nadu have not taken any step to Control the Pollution caused by the discharge of effluent. This Court on MAY 1, 1995 passed a detailed order. In the said order this Court noticed various earlier orders passed by this Court and finally directed as under :

"Mr. R. Mohan, learned senior counsel for the Tamil Nadu Pollution Control Board has placed before us a consolidated statement dividing the 553 industries into three parts. The first part in Statement No.1 and the second part in Statement No.2 relate to those tanneries who have set up the Effluent Treatment Plants either individually or collectively to the satisfaction of the Tamil Nadu Pollution Control Board. According to the report placed on the record by the Board, these industries in Statements 1 and 2 have not achieved the standard or have not started functioning to the satisfaction of the Board. So far as the industries in Statements 1 and 2 are concerned, we give them three months notice from today to complete the setting up of Effluent Treatment Plant (either individually or collectively) failing which they shall be liable to pollution fine on the basis of their past working and also liable to be closed. We direct the Tamil Nadu Pollution Control Board to issue individual notices to all these industries within two weeks from today. The Board is also directed to issue a general notice on three consecutive days in a local newspaper which has circulation in the District concerned.

So far as the 57 tanneries listed in Statement III (including 12 industries who have filed writ petition, Nos. of which have been given above) are concerned, these units have not installed and commissioned the Effluent Treatment Plants despite various orders issued by this Court from time to time. Mr. R. Mohan, learned senior counsel appearing for Tamil Nadu Pollution Control Board states that the Board has issued separate notices to these units directing them to set up the Effluent Treatment Plants. Keeping in view the fact that this Court has been

monitoring the matter for the last about four years and various orders have been issued by this Court from time to time, there is no justification to grant any further time to these industries. We, therefore, direct the- 57 industries listed hereunder to be closed with immediate effect. .... We direct the District Collector and the Senior Superintendent of Police of the District to have our orders complied with immediately. Both these Officers shall file a report in This Court within one week of the receipt of the order. We give opportunity to these 57 industries to approach this ' court as and when any steps towards the setting up of Effluent treatment Plants their plants and their commissioning have been taken by these industries. If any of the industries wish to be relocated to some other area they may come out with a proposal in that respect :

On July 28,1995 this Court suspended the closure order in respect or seven industries mentioned therein for a period of eight weeks. It was further observed as under:

"Mr. G . Ramaswamy, learned senior advocate appearing for some of the tanneries in Madras states that the setting up of the effluent treatment plants is progressing satisfactorily. According to him several lacs have already been spent and in a short time it would start operating. Mr. Mohan, learned counsel for the Tamil Nadu Pollution Control Board will inspect that project and file a report by 3rd August, 1995".

This Court on September 8, 1995 passed the following order :

"The Tamil Nadu pollution Control Board relates to about 299 industries stated by M.G. Ramaswamy, Mr. Kapil Sibal and Mr. Sanghi, learned senior advocates appearing f for these industries, that the setting up of projects is in progress. According to the learned counsel Tamil Nadu Leather Development Corporation (TALCO) is in charge of the project. The learned counsel state that the project shall be completed in every respect within 3 months from today. The details of these industries and the projects undertaken by TALCO as per list No. I is as under..... We are of the view that it would be in the interest of justice to give a little more time

to these industries to complete the project. Although the industries have asked time for three months, we give them time till 31st December, 1995. We make it clear that in case the projects are not completed by that time, the industries shall be liable to be closed forthwith. Apart from that, these industries shall also be liable to pollution fine for the past period during which they had been operating. We also take this opportunity to direct TALCO to take full interest in these projects and have the projects completed within the time granted by us.

Mr. Kapil Sibal, learned counsel appearing for the tanneries, stated that Council, for Indian Finished Leather Manufacturers Export Association is a body which is collecting 5% on all exports. This body also helps the tanneries in various respect. We issue notice to the Association to be present in this Court and assist this Court in all the matters pertaining to the leather tanneries in Madras. Mr. Sampath takes notice.

So far as List No. II is concerned, it relates to about 163 tanneries (except M/s. Vibgyor Tanners & Co., Kailasagiri Roads, Mittalam-635 811 Ambur (via), The Pollution Control Board has inspected all these tanneries and placed its report before us. According to the report most of these tanneries have not even started primary work at spot. Some of them have not even located the land. The tanneries should have themselves set up the pollution control devices right at time when they started working. They have not done so. They are not even listening to various orders passed by this Court from time to time during the last more than 2 years. It is on the record that these tanneries are polluting the area. Even the water around the area where they are operating is not worth drinking. We give no further time to these tanneries. We direct all the following tanneries which are numbering about 162 to be closed with immediate effect.

It may be mentioned that this Court suspended the closure orders in respect of various industries from time to time enable the said industries to install the pollution control devices.

This Court by the order dated October 20, 1995 directed the National Environmental Engineering Research Institute, Nagpur (NEERI) to send a team of experts to examine, in



particular, the feasibility of setting up of CETPs for cluster of tanneries situated at, different places in, the State of Tamil Nadu where the work of setting up of the CETPs has not started and also to inspect the existing CETPs including those where construction work was in progress. NEERI submitted its first report on December 9, 1995 and the second report on February 12, 1996. This Court examined the two reports and passed the following order on April 9, 1996:

"Pursuant to this Court's order dated December 15, 1995, NEERI has submitted Final Examination Report dated February 12, 1996, regarding CETPs constructed/under construction by the Tanneries in various districts of the State of Tamil Nadu. A four member team constituted by the Director, NEERJ inspected the CETPs from January 27 to February 12, 1996. According to the report, at present, 30 CETPs sites have been identified for tannery clusters in the five districts of Tamil Nadu viz., North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. All the 30 CETPs are inspected by the Team. According to the report, only 7 CETPs are under operation, while 10 are under construction and 13 are proposed. The following 7 ETPs are under operation:

1. M/s. TALCO Ranipet Tannery Effluent Treatment Co. Ltd. Ranipet, Dist. North Arcot Ambedkar.
2. M/s. TALCO Ambur Tannery Effluent Treatment Co. Ltd., Thuthipet Sector, Ambur Dist. North Arcot Ambedkar.
3. M/s. TALCO Vaniyambadi Tanners Enviro Control Systems Ltd., Vaniyambattu, Vaniyambadi, Dt. North Arcot.
4. M/s. Pallavaram Tanners Industrial Effluent Treatment Co., Chrompet Area, Dist. Chengai) MGR.
5. M/s. Ranipet SIDCO Finished Leather Effluent Treatment Co. Pvt. Ltd., Ranipet, Dist. North Arcot Ambedkar.
6. M/s. TALCO Vaniyambadi Tanners Enviro Control Systems Ltd. Udayendiram, Vaniyambadi, Dist. North Arcot Ambedkar.
7. M/s. TALCO Pernambut Tannery Effluent Treatment Co. Ltd., Bakkalapalli, Pernambut, Dist. North Arcot Ambedkar.

The CETPs mentioned at Sl. Nos. 5, 6 & 7 were commissioned in January, 1996 and were on the date of report passing through stabilization period. The report indicates that so far as the above CETPs are

concerned, although there is improvement in the performance they are still not operating at their optimal level and are not meeting the standards as laid down by the Ministry of Environment and Forests and the Tamil Nadu Pollution Control Board for inland surface water discharge. The NEERI has given various recommendations to be followed by the above mentioned units. We direct the units to comply with the recommendations of NEERI within two months from today. The Tamil Nadu Pollution Control Board shall monitor the directions and have the recommendations of the NEERI complied with. So far as the three units which are under stabilization, the NEERI Team may inspect the same and place a final report before this Court within the period of two months.

Apart from the tanneries which are connected with the above mentioned 7 units, there are large number of other tanneries operating in the 5 districts mentioned above which have not set up any satisfactory pollution control devices. Mr. Mohan learned counsel for the Tamil Nadu Pollution Control Board states that notices were issued to all those tanneries from time to time directing them to set up the necessary pollution control devices. It is mandatory for the tanneries to set up the pollution control devices. Despite notices it has not been done. This Court has been monitoring these matters for the last about 4 years. There is no awakening or realisation to control the pollution which is being generated by these tanneries.

The NEERI has indicated the physico-chemical characteristics of ground water from dug wells near tannery clusters. According to the report, water samples show that well-waters around the tanneries are unfit for drinking. The report also shows that the quality of water in Paler river down stream from the place where effluent is discharged, is highly polluted. We, therefore, direct that all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R which are not connected with the seven CETPs mentioned above, shall be closed with immediate effect. None of these tanneries shall be permitted

to operate till the time the CETPs are constructed to the satisfaction of the Tamil Nadu Pollution control Board. We direct the District Magistrate and the Superintendent of Police of the area concerned, to have all these tanneries closed with immediate effect. Mr. Mehta has placed on record the report of Tamil Nadu Pollution Control board. In Statement I of the Index, there is a list of 30 industries which have also not been connected with any CETPs. According to the report, these industries have not, till date set up pollution control devices. We direct the closure of these industries also. List is as under. .... The Tamil Nadu Pollution Control Board has filed another report dated January 18, 1996 pertaining to 51 Tanneries. There is dispute regarding the permissible limit of the quantity of total dissolved solids (TDS). Since the NEERI team is visiting these tanneries, they may examine the TDS aspect also and advise this Court accordingly. Meanwhile, we do not propose to close any of the tannery on the ground that it is discharging more than 2001 TDS. The report indicates that except the 17 units, all other units are non-complaint units in the sense that they are not complying with the BOD standards. Excepting these 17 industries the remaining 34 tanneries listed hereunder are directed to be closed forthwith. .... We direct the District Magistrate and the Superintendent of the Police of the area concerned to have all these industries mentioned above closed forthwith. The tanneries in the 5 districts of Tamil Nadu referred to in this order have been operating for a longtime. Some of the tanneries are operating for a period of- more than two decades. All this period these tanneries have been, polluting the area. Needless to say that the total environment in the area has been polluted the area. Needless issue show cause notice to these industries through their learned counsel who are present in Court why they be not subjected to heavy pollution fine. We direct the state of Tamil Nadu through the Industry Ministry, the Tamil Nadu Pollution Central Board and all other authorities concerned and also the Government of India

through the Ministry of Environment and Forests not to permit the setting up of further tanneries in the State of Tamil Nadu.

Copy of this order be communicated to the concerned authorities within three days. To come up for further consideration after the replies to the show cause. There are large number of tanneries in the State of Tamil Nadu which have set up individual pollution control devices and which according to the Tamil Nadu Pollution Control Board are operating satisfactorily. The fact however remains that all these tanneries are discharging the treated effluent within the factory precinct itself. We direct NEERI Team which is visiting this area to find out as to whether the discharge of the effluent on the land within the factory premises is permissible environmentally. M/s. Nandeem Tanning Company, Valayampet Vaniyambadi is one of such industries. Copy of the report submitted by the Tamil Nadu Pollution Control Board be forwarded to the NEERI. NEERI may inspect this industry within ten days and file a report in this Court. Copy of this order be communicated to NEERI.

Matter regarding Distilleries in the State of Tamil Nadu.

The Tamil Nadu Pollution Control Board has placed on record the factual report regarding Distilleries mentioned in page 4 of the Index of its report dated April 5, 1996. Learned counsel for the Board states that the Board shall issue necessary notices to these industries to set up pollution control devices to the satisfaction of the Board, failing which these distilleries shall be closed. The Pollution Control Board shall place a status report before this Court."

The NEERI submitted two further reports on may 1, 1996 and June 11, 1996 in respect of CETPs set up by various industries. The NEERI reports indicate that the physico-chemical characteristics of ground water from dug wells in Ranipath, Thuthipath, Valayambattu, Vandyambadi and various other places do not conform to the limits prescribed for drinking purposes.

This Court has been monitoring this petition for almost five years. The NEERI, Board and the Central Pollution Control Board (Central Board) have visited the tanning and other industries in the State of Tamil Nadu for several times. These expert bodies have offered all possible assistance to these industries. The NEERI reports indicate that even the seven operational CETPs are not functioning to its satisfaction. NEERI has made several recommendations to

be followed by the operational CETPs. Out of the 30 CETP-sites which have been identified for tannery clusters in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Thrichi and Chengai MGR. are under operation 10 are under construction and 13 are proposed. There are large number of tanneries which are not likely to be connected with any CETP and are required to set up pollution control devices on their own. Despite repeated extensions granted by this Court during the last five years and prior to that by the Board the tanneries in the State of Tamil Nadu have miserably failed to control the pollution generated by them.

It is no doubt correct that the leather industry in India has become a major foreign exchange earner and at present Tamil Nadu is the leading exporter of finished leather accounting for approximately 80% of the country's export. Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry.

The traditional concept that development and ecology are opposed to each other, is no longer acceptable. "Sustainable Development is the answer. In the International sphere "Sustainable Development" as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called Our Common Future. The Commission was chaired by the then Prime Minister of Norway Ms. G.H. Brundtland and as such the report is popularly known as "Brundtland Report" 1991 the World Conservation Union, United Nations Environment Programme and World Wide Fund for Nature, jointly came out with a document called "Caring for the Earth" which is a strategy for sustainable living. Finally, came the Earth Summit held in June, 1992 at Rio which saw the largest gathering of world leaders ever in the history - deliberating and chalking out a blue print for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non binding documents namely, a Statement on Forestry Principles a declaration of principles on environmental policy and development and initiatives and Agenda 21 a programme of action into the next century in areas like poverty, population and pollution. during the two decades from Stockholm to Rio "sustainable Development" and came to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting eco-systems. "sustainable Development: as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". We have no hesitation in holding that "Sustainable Development' As a balancing concept between ecology and development has been accepted as a part of the Customary International Law though its salient features have yet to be finalised by the International Law Jurists.

Some of the salient principles of "Sustainable Development", as culled-out from Brundtland Report and other international documents, are Inter-Generational Equity, Use

and Conservation of Nature Resources, Environmental Protection, the Precautionary Principle, Polluter Pays principle, Obligation to assist and cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays" principle are essential features of "Sustainable Development". The "Precautionary Principle" - in the context of the municipal law - means.

- (i) Environment measures - by the State Government and the statutory Authorities must anticipate, prevent and attack the causes of environmental degradation.
- (ii) Where there are threats of serious and irreversible damage lack of scientific certainty should not be used as the reason for postponing, measures to prevent environmental degradation.
- (iii) The "Onus of proof" is on the actor or the developer/industrial to show that his action is environmentally benign.

"The Polluter Pays" principle has been held to be a sound principle by this Court in *Indian Council for Environmental Action vs. Union of India* J.T. 1996 (2) 196. The Court observed, "We are of the opinion that any principle evolved in this behalf should be simple practical and suited to the conditions obtaining in this country". The Court ruled that "Once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on". Consequently the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

The precautionary principle and the polluter pays principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48A and 51A(g) of the Constitution are as under:

"47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular, The State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48A. (g) Protection and improvement

of environment and safeguarding of forests and wild life. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

51A.(g) To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures."

Apart from the constitutional mandate to protect and improve the environment there are plenty of post independence legislations on the subject but more relevant enactments for our purpose are: The Water (Prevention and Control of Pollution Act 1974 (the Water Act), The Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment Protection Act 1986 (the Environment Act). The Water Act provides for the constitution of the Central Pollution Control Board by the Central Government and the constitution of one State Pollution Control boards by various State Governments in the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. Also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the later Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the later part of this judgement.

In view of the above mentioned constitutional and statutory provisions we have no hesitation in holding that the precautionary principle and the polluter pays principle are part of the environmental law of the country.

Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost accepted proposition of law that the rule of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the Courts of Law. To support we may refer to Justice H.R. Khanna's opinion in *Adl. Distt. Magistrate Jabalpur vs Shivakant Shukla* (AIR 1976 SC 1207) *Jolly George Varghese's case* (AIR 1980 SC 470) and *Gramophone Company's case* (AIR 1984 SC 667).

The Constitutional and statutory provision protect a persons right to fresh air, clean water and pollution free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstone's commentaries on the Laws of England (Commentaries on the Laws of England of Sir William Blackstone) Vol.III, fourth edition published in 1876. Chapter XIII, "Of Nuisance" depicts the law on the subject in the following words :

"Also, if a person keeps his hogs, or other noisome animals, 'or allows filth to accumulate on his premises, so near the house of another, that the stench incommodes

him and makes the air unwholesome, this is an injurious nuisance, as it tends to deprive him of the use and benefit of his house. A like injury is, if one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallow chandler's, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, sic utere "tuo, ut alienum non laedas;" this therefore is an actionable nuisance. 'And on a similar principle a constant ringing of bells in one's immediate neighbourhood may be a nuisance . . . . . With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to another's meadow or mill; to corrupt or poison a water-course, by erecting a due house or a lime-pit, for the use of trade, in the upper part of the stream; 'to pollute a pond. from which another is entitled to water his cattle: to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of one's neighbour. So closely does the law of England enforce that excellent rule of gospel-morality, of "doing to others. as we would they should do unto ourselves ."

Our legal system having been founded on the British Common law the right of a person to pollution free environment is a part of the basic jurisprudence of the land.

The Statement of Objects and Reasons to the Environment Act, inter alia, states as under :

"The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food chains, growing risks of environmental accidents and threats to life support systems. The world community's resolves to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stock hold in June, 1972. Government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the Conference,



the need for a general legislation further to implement the decisions of the Conference has become increasingly evident ..... Existing laws generally focus on specific types of pollution or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety. Control mechanisms to guard against slow, insidious build up of hazardous substances, especially new chemicals, in the environment are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long-term requirements of environmental safety and to give direction to, and co-ordinate a system of speedy and adequate response to emergency situations threatening the environment ..... In view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable co-ordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening environment and deterrent punishment to those who endanger human environment, safety and health".

Sections 3, 4, 5, 7 and 8 of the Environment Act which are relevant are as under :

"3. Power of Central Government to take measures to protect and improve environment - (1) Subject to the provisions of this Act the Central, Government shall have till power to take all such measures as it deems necessary or expedient for the purpose of protecting improving the quality of the environment and preventing controlling and abating environmental pollution.

(2) In particular, and without prejudice to the Generality of the provisions of section (1), such

measures may include measures with respect to all or any of the following matters, namely :-

(i) co-ordination of actions by the State Governments, officers and other authorities -

(a) under this Act, or the rules made thereunder, or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for the emission or discharge of environmental pollutants from various sources whatsoever :

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources :

(v) restriction of areas in which any industries, operation or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) Inspection of any premises, plant, equipment, machinery, manufacturing or other processes, material or substances and giving, by order, of such direction to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition

or environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the powers and functions (including the power to issue directions under Section 5 ) of the Central Government under this act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

4. Appointment of officers and their powers and functions (1) without prejudice to the provisions of sub-section (3) of section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of section 3 of any other authority or officer".

5. Power to give directions. - Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central

Government may, in the exercise of its powers and performance of its functions under this Act, issue direction in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation. - for the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct ---

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

7. Persons carrying on industry, operation etc. not to allow emission or discharge of environmental pollutants in excess of the standards. No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.

8. Persons handling hazardous substances to comply with procedural safeguards. - No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed".

Rule 3(1), 3(2), and 5(1) of the Environment (Protection)

Rules 1986 (the Rules) are as under:

"3. Standards for emission or discharge of environmental pollutants. - (1) For the purposes of protecting and improving the quality of the environmental and preventing and abating environmental pollution, the standards for emission or discharge of environmental pollutants from the industries, operations or processes shall be as specified in Schedule I to IV).

3(2) Notwithstanding anything contained in sub-rule(1), the Control Board or a State Board may specify more stringent standards from those provided in (Schedule to IV) in respect of any specific industry, operation or process depending upon the quality of the recipient system and after recording reasons, therefore, in writing.

5. Prohibition and restriction on the location of industries and the

carrying on processes and operations in different areas - (1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas :

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environment pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the opinion of the Central Government, needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified, as such under the Wild Life (Protection) Act, 1972, or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements

(x) Any other factors as may be considered by the Central Government to be relevant to the protection of the environment in an area".

It is thus obvious that the Environment Act contains useful provisions for controlling pollution. The main purpose of the Act is to create an authority or authorities under Section 3(3) of the Act with adequate powers to control pollution and protect the environment. It is a pity that till date no authority has been constituted by the Central Government. The work which is required to be done by an authority in terms of Section 3(3) read with other provision of the Act is being done by this Court and the other Courts in the country. It is high time that the Central Government realises its responsibility and statutory

duty to protect the degrading environment in the country. If the conditions in the five districts of Tamil Nadu, where tanneries are operating, are permitted to continue then in the near future all rivers/canals shall be polluted, underground waters contaminated, agricultural lands turned barren and the residents of the area exposed to serious diseases. It is, therefore, necessary for this Court to direct the Central Government to take immediate action under the provisions of the Environment Act.

There are more than 900 tanneries operating in the five districts of Tamil Nadu. Some of them may, by now, have installed the necessary pollution control measures, they have been polluting the environment for over a decade and in some cases even for a longer period. This Court has in various orders indicated that these tanneries are liable to pay pollution fine. The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology.

Mr. M.C. Mehta, learned counsel for the petitioner has invited our attention to the Notification GOMs No. 213 dated March 30, 1989 which reads as under :

"Order :-

In the Government Order first read above, the Government have ordered, among other things, that no industry causing serious water pollution should be permitted within one kilometer from the embankments of rivers, streams, dams etc, and that the Tamil Nadu Pollution Control Board should furnish a list of such industries to all local bodies. It has been suggested that it is necessary to have a sharper definition for water sources so that ephemeral water collections like rain water ponds, drains, sewerages (bio-degradable) etc. may be excluded from the purview of the above order. The Chairman, Tamil Nadu Pollution Control Board has stated that the scope of the Government Order may be restricted to reservoirs, rivers and public drinking water sources. He has also stated that there should be a complete ban on location of highly polluting industries within 1 Kilometer of certain water sources.

2. The Government have carefully examined the above suggestions. The Government impose a total ban on the setting up of the highly polluting industries mentioned in Annexure - I to this order ' within one Kilometer from the embankments of the water sources mentioned in Annexure-II to this order.

3. The Government direct that under any circumstance if any highly polluting industry is proposed to be set up within one kilometer from the embankments of water sources other than those mentioned in

Annexure-II to this order, the Tamil Nadu Pollution Control Board should examine the case and obtain the approval of the Government for it".

Annexure-I to the Notification includes Distilleries, tanneries, fertilizer, steel plants and foundries as the highly polluting industries. We have our doubts whether the above quoted government order is being enforced by the Tamil Nadu Government. The order has been issued to control pollution and protect the environment. We are of the view that the order should be strictly enforced and no industry listed in Annexure-1 to the order should be permitted to be set up in the prohibited area.

Learned counsel for the tanneries raised an objection that the standard regarding total dissolved solids (TDS) fixed by the Board was not justified. This Court by the order dated April 9, 1996 directed the NEERI to examine this aspect and give its opinion. In its report dated June 11, 1996 NEERI has justified the standards stipulated by the Board. The reasoning of the NEERI given in its report dated June 11, 1996 is as under:

"The total dissolved solids in ambient water have physiological, industrial and economic significance. The consumer acceptance of mineralized water decreases in direct proportion to increased mineralization as indicated by Bruvold (1). High Total dissolved solids (TDS), including chlorides and sulphates, are objectionable due to possible physiological effect and mineral taste that they impart to water. High levels of total dissolved solids produce Laxative/cathartic/purgative effect in consumers. The requirement of soap and other detergents in household and industry is directly related to water hardness as brought out by DeBoer and Larsen (2). High concentration of mineral salts, particularly sulphates and chlorides, are also associated with costly corrosion damage in wastewater treatment systems, as detailed by Patterson and Banker (3). Of particular importance is the tendency of scale deposits with high TDS thereby resulting in high fuel consumption in boilers. The Ministry of Environment and forests (MEF) has not categorically laid down standards for inland surface water discharge for total dissolved solids (TDS), sulphates and chlorides. The Decision on these standards rests with the respective state Pollution Control Boards as per the requirements based on local site conditions. The standards stipulated by the TNPCB are justified on the aforesaid

considerations.

The prescribed standards of the TNPCB for inland surface water discharge can be met for tannery wastewaters cost-effectively through proper implant control measures in tanning operation, and rationally designed and effectively operated wastewater treatment plants (ETPs & CETPs). Tables 3 and 5 depict the quality of groundwater in some areas around tanneries during peak summer period (June 3-5, 1996). Table 8 presents the data collection by TNPCB at individual ETPs indicating that TDS, sulphates and chlorides concentrations are below the prescribed standards for inland surface water discharge. The quality of ambient waters needs to be maintained through the standards stipulated by TNPCB."

The Board has Power under the Environment Act and the Rules to lay down standards for emissions or discharge of environmental Pollutants. Rule 3(2) of the Rules even permit the Board to specify more stringent standards from those provided under the Rules. The NEERI having justified the standards stipulated by the Board, We direct that these standards are to be maintained by the tanneries and other industries in the State of Tamil Nadu.

Keeping in view the scenario discussed by us in this judgment, we order and direct as Under:-

1. The Central Government shall constitute an authority under Section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The Authority shall be headed by a retired judge of the High Court and it may have other members preferably with expertise in the field of pollution control and environment protection- to be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under Section 5 of the Environment Act and for taking measures with respect to the matters referred to in Clause (v), (vi) (vii) (viii) (ix) (x) and (xii) of Sub-Section (2) of Section 3. The Central Government shall constitute the authority before September 30, 1996.

2. The authority so constituted by the Central Government shall implement the "precautionary principle" and the "polluter pays" principle. The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology\environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from who the amount is



to be recovered, the amount to be recovered from each polluter, the persons to who the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collector\District Magistrates of the area concerned. The Collector\District magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to be affected persons/families.

4. The authority shall direct the closure of the industry owned/managed by a polluter in case he evades or refuses to pay the compensation awarded against him. This shall be in addition to the recovery from his as arrears of land revenue.

5. An industry may have set up the necessary pollution control device at present but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area.

6. We impose pollution fine of Rs. 10,000/- each on all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. The fine shall be paid before October 31, 1996 in the office of the Collector/District Magistrate concerned. We direct the Collectors/District Magistrates of these districts to recover the fines from the tanneries. The money shall be deposited, alongwith the compensation amount recovered from the polluters, under a separate head called "Environment protection Fund" and shall be utilised for compensating the affected persons as identified by the authorities and also for restoring the damaged environment. The pollution fine is liable to the recovered as arrears of land revenue. The tanneries which fail to deposit the amount by October 31, 1996 shall be closed forthwith and shall also be liable under the Contempt of Courts Act.

7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the State of Tamil Nadu. The scheme/schemes so framed shall be executed by the State Government under the supervision of the Central Government. The expenditure shall be met from the "Environment protection fund" and from other sources provided by the state Government and the Central Government.

8. We suspend the closure orders in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual Pollution control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.

9. We direct the Superintendent of Police and the Collector/district Magistrate/Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not be reopened unless the authority permits them to do so. It would be open to the authority to close such tanneries permanently or to direct their relocation.

10. The Government Order No. 213 dated March 30, 1989 shall be enforced forthwith. No. new industry listed in Annexure-I

to the Notification shall be permitted to be set up within the prohibited area. The authority shall review the case of all the industries which are already operating in the prohibited area and it would be open to authority to direct the relocation of any of such industries.

11. The standards stipuated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the standards stipulated by the Board.

We have issued comprehensive directions for achieving the end result in this case. It is not necessary for this Court to monitor these matters any further. we are of the view that the Madras High Court would be in a better position to monitor these matters hereinafter. We, therefore, request the Chief Justice of the Madras High Court to constitute a special Bench "Green bench" to deal with this case and other environmental matters. We make it clear that it would be open to the Bench to pass any appropriate order/orders keeping in view the directions issued by us. We may mention that "Green Benches" are already functioning in Calcutta, Madhya Pradesh and some other High Courts. We Direct the Registry of this Court to send the records to the registry of the Madras High matter as a petition under Article 226 of the Constitution of India and deal with it in accordance with law and also in terms of the directions issued by us. We give liberty to the parties to approach the High Court as and when necessary.

Mr. M.C. Mehta has been assisting this Court to our utmost satisfaction. We place on record our appreciation for Mr. Mehta. We direct the State of Tamil Nadu to pay Rs. 50,000/- towards legal fees and other out of pocket expenses incurred by Mr. Mehta.

TRUE COPY

*Anty 214*

BEFORE THE NATIONAL GREEN TRIBUNAL

Review Application No.- of 2024

In re:

ANUJ ABHAY DESHPANDE & OTHERS

Applicants

VERSUS

PUNE MUNICIPAL CORPORATION & OTHERS

Defendant/Respondent

KNOW ALL to whom these present shall come that I/We  
ANUJ ABHAY DESHPANDE & SHARDUL ABHAY MHALGI the  
above named APPLICANTS do hereby appoint (herein after called the advocate/s)  
to be my/our Advocate in the above noted case authorized him :-

Maitreya Prithwiraj Ghorpade (MAH/7771/2019), Aundh, Pune - 411067

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us. To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case. To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case. To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate, which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid, I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 30 day of APRIL 2024.

Accepted subject to the terms of fees.

Advocate

Client

Client

