BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE
INTERLOCUTORY APPLICATION NO. 428 OF 2026
IN
ORIGINAL APPLICATION NO. 152 OF 2025 (WZ)

IN THE MATTER OF:

Kalpesh Chandrakant Yadav ... Applicant

Versus

Union of India & Ors. ... Respondents

AND IN THE MATTER OF :

M/s Yellowstone Skyscrappers LLP ... Applicant
(Original Respondent No. 9)

REPLY AFFIDAVIT ON BEHALF OF THE ORIGINAL APPLICANT TO THE INTERLOCUTORY APPLICATION FILED BY RESPONDENT NO. 9

MOST RESPECTFULLY SHOWETH:

I, Mr. Kalpesh Chandrakant Yadav Age: Adult, Occupation: Social Work, Residing at Survey no. 24/4B/12, Sopannagar, Wadgaon Sheri, Pune, Maharashtra - 411014, do hereby solemnly affirm and state on oath as follows:

1. I state that I have carefully gone through the contents of the present IA and documents produced along with it and the same have been read and understood the contents thereof. At the outset, I state that the present IA deserves to be rejected with cost.
2. I state that, before giving parawise reply, the Original Applicant craves leave of this Hon'ble Tribunal submit following preliminary objections

A. PRELIMINARY OBJECTIONS

3. **IA is misconceived, not maintainable and is an abuse of the process**

The IA is misconceived, not maintainable and is an abuse of the process of this Hon'ble Tribunal. It is styled as an application for "clarification", but there is nothing in any order of this Hon'ble Tribunal that requires clarification. In substance it seeks mandatory directions to the MPCB to grant Consent to Operate ("CTO") and Consent to Establish ("CTE") to a project proponent against whom this Hon'ble Tribunal is already examining serious violations of the Environmental Clearance ("EC") conditions.

4. **Directions to a statutory authority to grant consent cannot be sought by way of an IA in the OA.**

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That the Consent under Sections 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as **"Water Act"**) and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as **"Air Act"**) is the exclusive statutory function of the State Pollution Control Board, to be exercised on its own satisfaction after considering compliance. The present OA concerns violation, restitution and compensation. It does not call for adjudication of the correctness of consent decisions, and the Hon'ble Tribunal, in the OA, is not sitting in appeal over MPCB's consent decisions. The prayers (b) and (c) of the IA would require this Hon'ble Tribunal to substitute its own satisfaction for that of the Board and to direct a grant. No such relief is available in this OA or by way of an IA.

5. **Statutory alternative remedy of appeal is available and unexercised.**
The refusal orders dated 13.08.2026 (CTO, Annexure A-3 of IA) and 03.10.2026 (CTE, Annexure A-4 of IA) expressly state, in their last paragraphs, that the aggrieved party may prefer an appeal under the Water Act and the Air Act within 30 days of receipt. The Section 28 of Water Act and the Section 31 of Air Act provide an appeal to the Appellate Authority, and orders of the Appellate Authority are in turn appealable to this Hon'ble Tribunal under Section 16 of the NGT Act, 2010. The IA Applicant has consciously not availed of this remedy, and is attempting to obtain by the present IA what can be sought only through the statutory appellate authoirities. The Applicant cannot bypass the Appellate Authority and the statutory hierarchy.

6. **The IA is a collateral attack on the refusal orders and is an attempt to circumvent limitation.**
The CTO refusal is dated 13.08.2026. The 30-day period for appeal expired well before the IA was filed on 09.10.2026. The IA does not challenge or seek to set aside Annexures A-3 and A-4 of the IA, yet prayer (c) asks that the Board "consider/reconsider" and grant consent, which can only be achieved by setting aside the refusals. This cannot be done indirectly through an IA in a pending OA.

7. **No ambiguity exists and no "clarification" is needed.**
The Hon'ble Tribunal has not passed any order directing MPCB to refuse, to defer, or to grant consent. Equally, no order has been passed permitting the PP to operate, occupy, hand over possession or expand. Whether or not the Hon'ble Tribunal has granted a stay, the PP has no

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vested right to consent. The absence of a stay only means that MPCB is free to exercise its statutory powers in accordance with law. MPCB has rightly refused consent on the ground of non-compliance.

8. **The IA proceeds on a deliberate mischaracterisation of the refusal orders.**

The IA suggests that consent was refused merely because the OA is pending. A plain reading of Annexures A-3 and A-4 of the IA shows otherwise. The refusals are founded on independent grounds:

(i) no restart order against the Stop Work Order dated 05.03.2026;

(ii) non-submission of the latest CA certificate (only a certificate as on 31.03.2024 was furnished);

(iii) possession given to 12 tenants without obtaining CTO, and no date of possession furnished, preventing computation of penal fees;

(iv) non-submission of the compliance report in this OA;

(v) non-compliance with the Proposed Directions dated 15.05.2025; and

(vi) failure to give satisfactory replies to the show cause notice and the scrutiny letter.

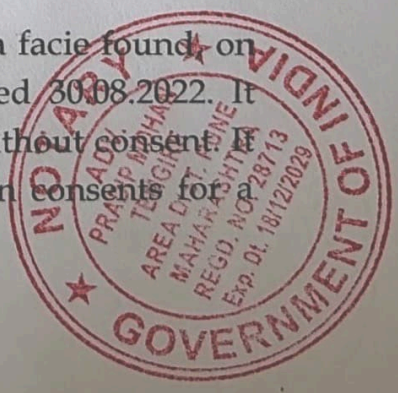
The reference to pendency of the OA is incidental. The IA itself concedes this in para 11.

9. **Suppression of material facts.**

The IA does not annex or even disclose (a) the Proposed Directions dated 15.05.2025 issued by MPCB under Section 33A of the Water Act and Section 31A of the Air Act, (b) the Stop Work Order dated 05.03.2026, which remains operative, and (c) the show cause notice dated 04.08.2026, its reply dated 07.08.2026, and the scrutiny letter dated 08.06.2026 with the reply. Annexure A-1 of IA also does not include any order after 27.08.2026, although the matter was listed on 06.10.2026, three days before the IA was filed. A party who suppresses material facts is not entitled to any discretionary or equitable relief.

10. **The IA Applicant does not come with clean hands.**

As shown below, the IA Applicant/PP has been prima facie found, on the material on record, to have violated the EC dated 30.08.2022. It continues to operate, occupy and market the project without consent. It cannot seek the aid of this Hon'ble Tribunal to obtain consents for a project it has built in excess of its EC.



11. **The relief sought in IA will make the OA infructuous.**
By Order dated 27.08.2026 this Hon'ble Tribunal has directed that this OA be clubbed with Appeal No. 140/2026, in which the EC dated 21.05.2026 is assailed, on the footing that the question of violation and environmental compensation is yet to be decided. A direction to grant CTO/CTE now would create a fait accompli, would legitimise the construction whose legality is under adjudication, and would defeat the restitutionary purpose of the OA.

12. **The IA is defective.**
The IA number is blank. The affidavit in support is undated in the body, is filed by a deponent described as "authorized signatory", but no resolution or authority letter is annexed, whereas the consent applications at Annexure A-2 are signed by Mr. Vineet Goyal as Director/Managing Partner. The affidavit does not verify the paragraphs of the IA separately and verifies them partly on "legal advice".

B. PARA-WISE REPLY

11. **Para 1:** The contents in para 1 are denied unless specifically admitted. It is admitted that the IA Applicant is Respondent No. 9 and the Project Proponent of "Sportsville". The description of the project site as Survey No. 47(P) is inconsistent with Survey No. 47/1/A, Village Maan, as appearing in the cause title, the EC, the consent applications and the Hon'ble Tribunal's orders. The claim that the IA is filed through a "duly authorised representative" is not supported by any document.

12. **Para 2:** The contents in para 2 are denied unless specifically admitted. There is no occasion for any clarification as this Hon'ble Tribunal has not restrained MPCB from deciding the applications, and MPCB has in fact decided them by Annexures A-3 and A-4 of the IA. The IA is therefore not seeking clarification but is in effect seeking to set aside, or direct the reversal of, decisions already taken. The Hon'ble Tribunal is respectfully requested not to entertain it.

13. **Para 3:** The contents in para 3 are denied unless specifically admitted. For the reasons stated in the preliminary objections, no direction can be sought against MPCB to grant consent. The Board's decision as to whether the statutory requirements are satisfied is for the Board, subject to the statutory appeal. The phrase "where the applicable statutory

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requirements are satisfied" makes the prayer meaningless, since MPCB has already found that they are not satisfied.

14. **Para 4:** The statement made in para 4 is that the relief is subject to compliance with environmental requirements is an admission that compliance is lacking and has not been shown. The IA Applicant's/PP's assertion that it does not seek exemption from scrutiny is contradicted by the relief it seeks, which is a direction to grant consent notwithstanding unresolved non-compliance. The IA Applicant/PP is also contradicting itself by contending that the OA is of no relevance to the consent while seeking directions from this Hon'ble Tribunal in the OA through present IA.
15. **Para 5:** The contents in para 5 are denied unless specifically admitted. It is admitted that an EC was granted on 30.08.2022. The area is wrongly stated as 54,919.97 sq. m.; the EC, as recorded in the Hon'ble Tribunal's orders dated 19.01.2026 and 27.08.2026 and the MPCB's Proposed Directions, is for built-up area of **54,919.87 sq. m.** and total plot area of 21,033.77 sq. m. It is denied that the EC dated 30.08.2022 can be relied on to justify the project as constructed. The Hon'ble Tribunal has prima facie noted that the construction exceeds what the EC dated 30.08.2022 is permitted.
16. **Para 6:** The contents in para 6 are denied unless specifically admitted. It is admitted that no interim order staying the EC or specifically restraining MPCB was passed in this OA., however the absence of a stay is not an authorisation to operate, occupy or expand. Further a stay of the EC is not a precondition for MPCB to refuse consent and MPCB's refusal is based on its own findings of non-compliance. The Stop Work Order dated 05.03.2026 issued by MPCB itself is in force, and no restart order has been obtained. The Hon'ble Tribunal, by order dated 17.06.2026, recorded its prima facie concern that the EC dated 21.05.2026 had been granted ex-post facto, and by order dated 27.08.2026 clubbed the matter with the appeal against the EC dated 21.05.2026. The absence of a stay in the OA must not be mistaken for a clean chit.
17. **Para 7:** The contents in para 7 are denied unless specifically admitted. The table of consent applications is incorrect and inconsistent with Annexure A-2. The CTO application (UAN MPCB-CONSENT-0000280461) records submission on **09.03.2026** (payment received 14.05.2026), and the CTE application (UAN MPCB-CONSENT-



0000289719) records submission on **26.05.2026** (payment received 04.06.2026). The IA gives the dates as 14.05.2026 and 04.06.2026. The applications themselves are also inconsistent with each other and with the record, for example: (a) the CTO application states built-up area of 53,526.87 sq. m. against the EC of 54,919.87 sq. m.; (b) the CTE application states plot area of 21,651.00 sq. m. and built-up area of 66,189.69 sq. m. (54,919.87 + 11,269.82), whereas the EC dated 21.05.2026 records total built-up area of 81,964.54 sq. m.; (c) the CTO application claims 1,800 sq. m. (95%) of the green belt as planted, whereas the CTE application, filed just weeks later, shows 0 sq. m. (0.0%) planted and zero trees; (d) both applications state "Legal Action Taken: No", "Whether STP provided: No", and latitude/longitude as 0, despite the Proposed Directions of 15.05.2025, the Stop Work Order of 05.03.2026 and this OA; and These declarations are on their face incorrect and the Board was justified in not accepting them.

18. **Para 8:** The contents in para 9 are denied unless specifically admitted. Further the reproduction of the CTO refusal is selective. The refusal order records that the show cause notice dated 04.08.2026 was issued for non-submission of the latest CA certificate, no restart order, possession given to 12 tenants without CTO, and no compliance report in this OA, and that the reply was found unsatisfactory on these grounds. The refusal is thus on the PP's own default. Admitting that possession was handed over to 12 tenants without CTO is itself an admission of operating without consent, which is an offence under the Water Act and the Air Act.
19. **Para 9:** The contents in para 9 are denied unless specifically admitted. Further the reproduction of the CTE refusal is selective. The CTE refusal dated 03.10.2026 records that the Board had sought information on compliance of the Stop Work Order dated 05.03.2026 and of the Proposed Directions dated 15.05.2025, that the PP has not obtained a restart order, and that no satisfactory reply was given. The statement that the refusal is based on pendency of the OA is false. The order also refers to this Hon'ble Tribunal's order dated 28.08.2026 (as recorded by the Board however it need to be 27.08.2026) and the consent committee meeting of 28.09.2026.
20. **Para 10:** The contents in para 10 are denied unless specifically admitted. The grievance, if any, is against Annexures A-3 and A-4 of the IA.

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which the IA Applicant/PP has not challenged and for which a statutory appeal is provided. It is not open to the IA Applicant/PP to seek setting aside the refusal orders on the ground of pendency of OA and not seeking appropriate remedy provided under the concerned Acts.

21. **Para 11:** This para is an admission that the refusal orders rest on independent technical deficiencies and statutory non-compliance. Those are precisely the grounds on which consent was refused. On the cost of repetition, it is submitted that, the remedy against the refusal is by way of appeal and not by way of a direction in this OA. The IA Applicant's assurance that it seeks no presumption that such objections stand answered is of no consequence.

22. **Paras 12 and 13:** The contents in para 12 and 13 are denied unless specifically admitted. No "automatic embargo" has been imposed by this Hon'ble Tribunal or by MPCB. MPCB has not treated pendency as a bar, and it examined and decided the applications on their facts. As to para 13, the IA Applicant/PP itself concedes that an EC does not dispense with separate consent requirements. The EC dated 30.08.2022 covers only 54,919.87 sq. m., and construction beyond it is the subject of this OA. The EC dated 21.05.2026 is under challenge in Appeal No. 140/2026 and is alleged to be ex-post facto. A direction to MPCB to "give due weight" to the EC dated 30.08.2022 for what has been built beyond it, or to the later EC, would prejudge matters pending before this Hon'ble Tribunal.

C. THE IA APPLICANT HAS BEEN FOUND, PRIMA FACIE, TO BE IN VIOLATION

23. In the Proposed Directions dated 15.05.2025 (recorded in this Hon'ble Tribunal's orders dated 19.01.2026 and 27.08.2026), MPCB found, inter alia, that: (i) revised sanctions of 14.02.2022 and 13.12.2023 were obtained but no revised EC was obtained before commencing additional construction; (ii) Towers A, B and D are completed up to G+S+19, with an additional 5 floors violating the conditions of EC dated 30.08.2022; (iii) the MHADA building has been sanctioned for G+18 against 9 floors in the EC, with 9 additional floors not covered by the EC dated 30.08.2022; (iv) a Club House (G+1) has been built which is not in the EC dated 30.08.2022; (v) the green belt/RG area of 1,885.56 sq.

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m. has not been provided on mother earth; (vi) the STP was not found in operation and was not open to sky; (vii) capacity details of the OWC were not made available; (viii) revised consent and EC for the changes on site were not obtained; (ix) 40% electric charging points were not provided; (x) details of tanker water supply and the CGWA NOC for ground water and basement were not furnished; and (xi) no Architect's Certificate for completed BUA was submitted.

24. By its order dated 27.08.2026 (in paras 5 to 9), this Hon'ble Tribunal noted the subsequent EC dated 21.05.2026 (TBUA 81,964.54 sq. m.), that Building A now contains 19 floors in place of the 14 permitted, and the PMRDA's affidavit dated 30.07.2026 recording that actual construction area exceeds the 54,919.87 sq. m. permitted under the EC dated 30.08.2022. The Hon'ble Tribunal recorded that it was "convinced" by the argument that the evidence proves prima facie a violation for which the PP must be held accountable and environmental compensation levied, and directed that this OA be clubbed with Appeal No. 140/2026.
25. By order dated 17.06.2026 the Hon'ble Tribunal recorded that the EC dated 21.05.2026 was said to have been granted ex-post facto, and directed the State authorities to file a reply clarifying the circumstances. Ex-post facto clearance is contrary to the settled position that environmental clearance is a prior requirement and not a mere formality, and the precautionary principle and the polluter pays principle apply.
26. The IA Applicant's conduct, as summarised below, confirms the violation: (a) it proceeded with construction beyond the EC dated 30.08.2022; (b) it gave possession to 12 tenants without obtaining prior CTO; (c) it did not obtain a restart order against the Stop Work Order dated 05.03.2026; (d) it has not furnished compliance with the Proposed Directions dated 15.05.2025 or the compliance report in this OA; and (e) it has furnished inconsistent and incorrect declarations in its consent applications.
27. The jurisdiction of this Hon'ble Tribunal under Sections 14, 15 and 16 of the NGT Act is limited to (i) civil appeals on substantial questions relating to environment arising out of the enactments in Schedule I, (ii) restitution and compensation, and (iii) statutory appeals. The Hon'ble Tribunal does not exercise writ jurisdiction over the discretion of the

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Board and is not to compel a statutory authority to grant a permission which it has refused for reasons of non-compliance.

28. A person who has an efficacious alternative statutory remedy cannot be allowed to ignore it and to seek the same relief in an unrelated proceeding. The fact that appeal against A-4 is still within time (30 days from receipt of the order dated 03.10.2026) shows that the IA is not an emergent step but a forum shopping.

29. The IA is, in effect, a request for interim relief on the project in a proceeding concerning violation. The balance of convenience lies in favour of the environment. The project is under a Stop Work Order dated 05.03.2026, has built in excess of the EC, has not provided the green belt, and has an STP which was not found operational. Consent is the Board's primary tool for enforcing these conditions. To direct its grant now would defeat the enforcement scheme and the interest of the residents and the neighbouring public.

30. The Hon'ble Tribunal also may be pleased to note that the IA Applicant does not state that it has complied with the Proposed Directions dated 15.05.2025, the Stop Work Order dated 05.03.2026 or the requirements recorded in Annexure A-3 and A-4 of IA, or that it has applied for a restart order. In the absence of any such statement the IA is not bona fide.

31. Even in the alternative, if the Hon'ble Tribunal considers some clarification to be necessary, it is requested to clarify only that (i) the Hon'ble Tribunal has not directed MPCB to grant or refuse any consent, (ii) MPCB's decisions are to be taken in accordance with law and subject to the statutory appeal, and (iii) nothing in the IA or in the order shall be construed as an adjudication on the violations or the validity of the ECs, or as permitting the PP to continue or resume construction, occupation or sale without valid consents.

PRAYER

32. In the facts and circumstances above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

(a) dismiss the Interlocutory Application as not maintainable and as an abuse of the process of this Hon'ble Tribunal, with exemplary costs;

(b) pass such further orders as this Hon'ble Tribunal deems fit in the interest of justice and the environment.

Place: Pune

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Date: 18 .11.2026

Deponent

VERIFICATION

I, Mr. Kalpesh Chandrakant Yadav Age: Adult, Occupation: Social Work, Residing at Survey no. 24/4B/12, Sopannagar, Wadgaon Sheri, Pune, Maharashtra – 411014do hereby state on oath that, the contents of para 1 to 31 are true and correct to the best of my knowledge and the contents of para no.32 are my humble prayers.

Hence verified at Pune on 18th day of November, 2026

Deponent

AFFIDAVIT

Solemnly Affirmed before me by
by Shri / Smt. Kalpesh chandrakant Yadav
R/o. Sr.No. 24/4B/12 Sopannagar. Wadgaon Sheri pune.
Tq. Haveli Dist. pune
Who identified by... parasana Jagannath chavan
Whom he/she is Personally Known.

Adv. PRADIP MOHAN TEMGIRE
Notary, Govt. of India
Pune Dist. Maharashtra

NOTED AND REGISTERED
SERIAL NUMBER: 446 – 2026
DATE: 18/11/2026

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