BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

ORIGINAL APPLICATION NO. 85/2022 (WZ)
(CAVEAT NO. 12/2022)

IN THE MATTER OF:

Sachin Sudamrao Pachpute
R/o: Kashti, Tal-Shrigonds
District-Ahmednagar-414701
Maharashtra.

.....Applicant

Versus

1. **M/s. Sahakar Maharshi Shivajirao Narayanrao Nagawade SSK Ltd. (Sugar Unit),**
   Plot No. 52/2, Limpangaon Village,
   Tal-Shrigonda District-Ahmednagar-413726

2. **Maharashtra Pollution Control Board,**
   Through the Regional Officer, Nashik
   Off/at: Nashik Division, Udyog Bhavan,
   First Floor, Trimbak Road,
   Near ITI, Satpur, Nashik-422007

3. **Central Pollution Control Board,**
   'Parivesh Bhawan', East Arjun Nagar,
   Shahdara, Delhi-110032

4. **The District Collector,**
   Collectorate Campus,
   Ahmednagar-414001

.....Respondents

Counsel for the Applicant:

Mr. Tanaji B. Gambhire, Advocate along-with
Mr. Vijay Mhaske, Advocate.

Counsel for the Respondents:

Mr. Sangramsingh R. Bhonsle, Advocate along-with
Ms. Samridhi S. Jain, Mr. Nrupal A. Dingankar,
Ms. Pushkara A. Bhonsle, Mr. Naman Sherstra,
Mr. Mahesh Jadhav, Advocates for R-1/PP
Mr. Aniruddha S. Kulkarni, Advocate for R-2/MPCB & R-3/CPCB

PRESENT:
Hon'ble Mr. Justice Dinesh Kumar Singh (Judicial Member)
Hon'ble Dr. Sujit Kumar Bajpayee (Expert Member)

Reserved on : 11.02.2026
Pronounced on : 24.02.2026

JUDGMENT

1. This Original Application No. 85/2022 has been filed with the prayers that respondent no. 1-M/s Sahakar Maharshi Shivajirao Narayanrao Nagawade SSK Ltd. (Sugar Unit) be directed to close down their activities of crushing until remedial measures for decreasing environmental damage have been adopted; respondent no. 1 be directed to pay compensation on the principle of 'polluter pays'.

2. In the body of the application, it is submitted that the applicant is social worker as well as a farmer, who is directly affected along with many other persons because of molasses being floated in Ghod river by the respondent no. 1 industry as a result of which many health problems have arisen. The applicant is having agricultural land being Gat No. 623/2, near Malicha Odha, Village Kashti, Tal-Shrigonda, District Ahmednagar, adjacent to the sugar factory of respondent no. 1. The sugar factory of respondent no. 1 is discharging effluents without treating it through Effluent Treatment Plant (ETP), into the Ghod River. The officials of the respondent no. 2-MPCB visited the premises of respondent no. 1 to see as to whether the compliance of consent conditions was done. Respondent no. 2 issued two letters dated 09.02.2022 regarding proposed directions to the respondent no. 1 noting therein that the factory has violated the consent conditions and had caused pollution in the nearby area and directed as to why the factory of respondent be not stopped from operating. In the non-compliance its observed and recorded that 1. the

factory is disposing treated effluent into kaccha lagoon; 2. The factory has not provided OCEMS to old boiler; 3. The factory has not submitted valid bank guarantee of Rs. 25,00,000 as per condition; 4. The factory has not connected OCEMS provided to co-gen boiler, to MPCB and CPCB server; and 5. The factory has not completed with the condition for restart direction issued on 11.10.2021.

3. In the second letter following was recorded: 1. The factory had not completed the work of CPU: 2. Large scale seepage was observed near pacca lagoon and the same was going into kaccha pit, causing water pollution problem in surrounding area; 3 Flow meter and web camera provided to spent wash line and bio-composting yard were not connected with the MPCB and CPCB server; 4. Factory did not submit direct bank guarantee from 09.05.2019.

4. On 10.02.2022, on the next day, molasses tank blast incident happened in the industry premises. Respondent no. 2 visited the site of incident of molasses tank blast and observed that blast happened in molasses storage area. Due to this accident, molasses has spread in the premises and had also gone into the nearby nalla. It has flown till approximately 1 kilometer length in said nalla and had also spread to nearby farmlands. Due to this blast, the wall nearby ETP was damaged and the nearby farmers suffered a great loss as well as damage was caused to environment.

5. The same day respondent no. 2 representatives visited the factory and prepared the Visit Report dated 10.02.2022 which is annexed as Annexure-D.

6. On receipt of the written complaint of the applicant, the respondent no. 2 visited the place of sugar factory and found that, sugar factory has not complied with consent conditions and restart directions willfully and caused contamination in the surrounding environment. Accordingly, the Board issued notice to the sugar factory on 10.02.2022 and directed it to stop operation of sugar unit. It was also directed that, 1. the industry shall stop the feeding of sugar cane for crushing immediately and also shall stop the operation of sugar factory within 48 hours; 2. the industry shall collect transport, store and dispose the molasses in a scientific manner so as to avoid further contamination, the notice annexed as Annexure-E.

7. In spite of the above directions, the respondent no. 1 did not stop the operation of sugar unit and not complied with the directions issued by the respondent no. 2.

8. Again, complaints were made by the applicant and farmers regarding discharge of contaminated water in river, on which, the respondent no. 2 officials visited the site of the sugar factory of respondent no. 1 on 28.03.2022. The representatives of respondent no. 2 also visited surrounding area and inspected the Ghod River as well as surrounding area and prepared the report regarding the same which is annexed as Annexure-F.

9. It was observed that water flowing through Malicha Odha i.e. Molasses Nalla from respondent no. 1 sugar unit, was of yellowish color. This Nala merges in the Ghod river. The same day officials of respondent no. 2 collected water sample from Ghod river (Tandali bridge), Malicha Odha (Santwadi), Khore Mala Bandhara etc. The lab report prepared from the lab of MPCB is annexed as Annexure-G.

10. The office of District Public Health Laboratory, Ahmednagar collected the samples of water on 11.04.2022 from Ghod river. On examination, it was found that Ghod river water was unfit for drinking, the copy of that report is Annexure-H.

11. Time and again complaints were made by the applicant and various persons about untreated effluent discharged in the Ghod river by respondent no. 1. On 28.04.2022, the respondent no. 2's officials visited the surrounding area of 'Asawani Project' run by the respondent no. 1 factory. The official of respondent no. 2 found that spent wash had been dumped in the land situated in the village Holewadi; on inspection of the village Limpangaon to Shrigonda road and the surrounding area, the spent wash has been found dumped along road side; from Shrigonda to Mhatar Pimpri to Nitin Wable Wasti, Mhatar Pimpri to Khan Wasti, Madhe Wadgaon to Baburdi road and surrounding area of Ghanwat Wasti, the spent wash has been found dumped all over. The pollution caused due to spent wash was found most critical environmental issues endangering the health of the people.

12. Respondent no. 1 dumped the waste in residential areas of adjacent villages but respondent no. 2 did not take any action.

13. There are various photographic evidences clearly pointing out to the absolute irresponsible and illegal means adopted by the respondent factory to dispose of the effluents in river through nalla and the village. There were numerous holes, around which the polluted water has been accumulated. The same polluted untreated water later percolates into fresh water and during the rains it gets washed off into other sources of water and into the ground.

14. The aquatic life is dying due to the toxic pollutants in the water from the effluents which kills the fishes in the river. The respondent factory is deliberately carrying out the act of illegal dumping as well as flowing effluent water on the roads through the tankers as shown in the photographs. The heat evaporates the liquid but the road or the fields, where the tankers pour the effluents, are left with the dried-up toxic chemicals.

15. Again on 03.08.2022 respondent no. 1 discharged the untreated effluent directly in the surrounding area which went into the agricultural land of the farmers and caused huge loss and damages to the standing crops regarding which the farmers have made various complaints.

16. This Tribunal on 11.05.2022 has already decided Original Application No. 70/2017 and Appeal No. 106/2017 filed against the respondents with some directions, copies of which are annexed as Annexure-M.

17. It is repeated neglect on the part of the project proponent i.e. causing damage to the health of people. Hence, the present application is moved with above mentioned prayer.

18. This matter was first considered by this Tribunal on 29.02.2022 and had constituted a Joint Committee comprising one member each of CPCB, MPCB and District Collector with a direction to submit a report within one month.

19. In compliance with the said direction Joint Committee has submitted its report which is annexed Page 91 to 113, relevant part of which is quoted hereinbelow:

"1.0 Conclusions

i. *The industry is an integrated sugar & distillery unit, located within the same premises and having separate CTO issued by MPCB. The CTO of industry (Sugar unit & Distillery unit) was expired on 31/07/2022 and 31/08/2022. As per the records of MPCB, the industry has applied for renewal of CTO of Sugar & Distillery unit, which are pending before MPCB.*

ii. *The industry (Sugar unit) in compliance to the Schedule-I of CTO dated 23/11/2021 i.e. Terms & conditions for compliance of Water Pollution Control has provided ETP of reported design capacity of 1,000 m3/day comprising of primary, secondary & tertiary treatment system for treatment of process effluent. Also, CPU of reported design capacity of 1,200 m3/day for treatment of excess condensate. The treated effluent from ETP is discharged for irrigation on 150 acre agricultural land (own & also pvt. land, as per bi-lateral agreement with farmers). Similarly, treated condensate from CPU is reused in utilities (cooling tower make-up) after treatment through softner. Excess treated condensate is channelized to fresh water reservoir for reuse in process (sugar & distillery unit). Also, the industry (Sugar unit) in compliance to Schedule-I of CTO dated 03/02/2021 i.e. G) CREP conditions for sugar factory; has initiated stabilization of ASP of ETP as well as ASP of CPU to achieve the desired MLSS concentration prior to starting of cane crushing activities of sugar unit.*

iii. *The industry (Distillery unit) in compliance to the Schedule-I of CTO dated 03/02/2021 i.e. Terms & conditions for compliance of Water Pollution Control has provided comprehensive treatment for volume reduction of spent wash consisting of bio-digester (UASB) of reported design capacity of 360 m3/day followed by MEE followed by bio-*

composting on 05 acre concrete lined biocompost yard. Biogas generated @ 350 – 450 m3/hr from UASB is used as a supplementary fuel in co-gen boiler of sugar unit and excess biogas is flared in the flaring system. The concentrated spent wash (up to 45%) is utilized in preparation of bio-compost. Also, installed CPU of reported design capacity of 360 m3/day for treatment of MEE condensate. Treated MEE condensate is reused in molasses dilution & fermenter make-up, recirculation pump cooling & its accessories and utilities (cooling tower make-up) after treatment through softner.

iv. *The industry (Sugar unit) has installed online continuous effluent monitoring system (OCEMS) at the final treated effluent conveyance pipeline of sugar unit for monitoring of parameters viz. pH, TSS, COD, BOD & Flow in compliance to the CPCB directions vide dated B-29016/04/06/PCI-I, dated 05/02/2014 and as per 1st Revised Guidelines for Online Continuous Effluent Monitoring Systems, July, 2018 of CPCB. Also, OCEMS is connected to CPCB & MPCB servers.*

v. *The industry (Sugar unit) has installed online continuous emission monitoring system (OCEMS) at the stack of co-gen boiler of sugar unit for monitoring of parameter i.e. PM in compliance to the CPCB directions vide dated B- 29016/04/06/PCI-I, dated 05/02/2014 and as per 1st Revised Guidelines for Online Continuous Emission Monitoring Systems, August, 2018 of CPCB. Also, OCEMS is connected to CPCB & MPCB servers and status of its connectivity to servers have been communicated to MPCB vide email dated 23/08/2022.*

vi. *Further, the industry (distillery unit) has installed online flow meter at the spent wash conveyance pipeline to the 30 days lined spent wash storage lagoon and also installed PTZ camera at the 05 care bio-*

compost preparation yard. The aforesaid monitoring system is installed in compliance to the1st Revised Guidelines for Online Continuous Effluent Monitoring Systems, July, 2018 of CPCB. Wherein, it is mentioned that the industries claiming Zero discharge and not discharging effluent outside the premises shall to install Camera and flow meter at the discharge point from the channel / drain provided for carrying the effluent within the industry. Also, OCEMS is connected to CPCB & MPCB servers.

vii. *It is observed from the Form R.T. 8 (C) i.e. the final manufacturing report for the crushing season 2021-22 (Central Excise Rule 83) submitted to the Commissioner of Sugar, Pune that cane crushing for the season 2021-22 was started w.e.f. 27/10/2021 and end date of cane crushing was 28/04/2022. The industry has not complied to the directions issued by MPCB i.e. didn't stopped cane crushing on or before 12/02/2022 i.e. within 48 hrs from the date of issue of directions from MPCB by referring to the circular issued by the Commissioner of Sugar, Maharashtra vide letter dated 08/02/2022.*

viii. *Based on the aforesaid Form R.T. 8 (C) that total cane crushed during last crushing season is exceeding the consented capacity of 3,500 TCD (4,858 > 3,500 TCD). It was gathered that the industry has communicated to MPCB vide letter dated 28/01/2022 with a request for amendment in their CTO i.e. to grant cane crushing capacity of 4,800 TCD, instead of making an CTE application for expansion in the cane crushing capacity. Later, the industry made a CTE application to MPCB vide dated 20/04/2022 for expansion of cane crushing capacity from the existing 3,500 to 7,500 TCD. Accordingly, MPCB during the CAC meeting vide dated 24/06/2022 had considered the CTE expansion application of the industry and also noted the various*

violations done by the industry. After due deliberation, CAC of MPCB decided to grant CTE expansion for cane crushing from existing 3,500 to 7,500 TCD with a condition to submit a bank guarantee of Rs. 25 Lakhs for compliance towards consent conditions.

MPCB has issued show-cause notice to the industry vide dated 29/09/2022 for non-compliances of various environmental enactments and also forfeited bank guarantee of Rs. 25 Lakhs for the non-compliances of CTO conditions.

ix. *MPCB has issued interim directions to the industry u/s 33A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31A of the Air (Prevention & Control of Pollution) Act, 1981, dated 17/10/2022 to carry-out assessment on contamination of soil, cost of remediation and damage assessment through NEERI/IIT/VSI. The industry vide letter dated 22/10/2022 issued the work order to M/s VSI, Pune for carrying out soil contamination assessment study including damages to recipient environment and remedial measures thereto.*

x. *Prima-facie the explosion of molasses storage tank occurred due to the end of life of storage tank, as the storage tanks were commissioned during 1984 followed by inadequate operation &* maintenance of *storage tanks. Also, as reported by the industry's internal investigation team that due to absence of proper online cooling and stirring mechanism, an exothermic reaction took place with generation of unstable gases like SO2, SO3 and CO2 and due to very high static pressure of dissolved gases, resulted in explosion of molasses storage tank.*

xi. *On account of explosion, the molasses was spread in the ETP area and also flown to the area i.e. barren land towards south-west direction (outside the compound wall, within the purview of industry)*

and ultimately to the malicha nalah/natural drain. The industry immediately contained the spread of molasses by creating artificial earthen bund at the natural drain and recollected ~ 2,340 MT of molasses contaminated water and transferred to 05 days lined spent wash storage lagoon. Also, collected ~9,915 MT of molasses contaminated soil by scrapping top layer of soil (~10 cm) from 01 acre of own land and also scrapping the bottom layer of soil (~ 10 cm) from natural drain and transferred to the existing bio-compost yard. Collected molasses contaminated water is treated in existing ETP of distillery unit and utilized in bio-compost preparation. Similarly, collected molasses contaminated soil is utilized by proportionating with the press mud & other additivities for preparation of bio-compost.

xii. During joint committee inspection, old brick lined (13,500 m3 capacity) spent wash storage lagoons was found filled with sludge & spent wash contaminated water. Also, the new concrete lined 30 days spent wash storage lagoon was found filled with spent wash contaminated water. Apparently, the industry has not completely utilized the spent wash generated during the last operational season of distillery. Also, not de-suldged the old brick lined lagoon. The unutilized concentrated spent wash of last season was about 3,230 MT. Further, on an account of heavy rain (about 735.33 mm) occurred during June, 2022 till 17th October, 2022 in the area; had resulted in overflow of spent wash contaminated water from the lagoons into adjoining low lying area and also into the natural drain. The industry has recollected overflowed spent wash contaminated water through pumps from low lying areas and channelized into exiting 30 days lined storage lagoon. As per the information submitted, about 6,286 MT of spent wash contaminated water is stored in the 30 days lined spent wash storage

lagoon. Apparently, the stored quantity is even more; as the capacity of 30 days storage lagoon is 8,380 m3 and it was evident that during joint committee inspection lagoon water overflow was observed.

xiii. *Joint committee collected grab water/leachate contaminated water samples along the stretch of natural drain i.e. upstream & downstream locations from the molasses spread/affected areas and submitted to laboratory of MPCB at Nashik for analysis of various physico-chemical parameters viz. pH, EC, SS, TDS, Chloride, Sulphates, Phosphate, Potassium, COD, BOD & TKN. Analysis results of the same is yet to be received from MPCB. Upon receipt of analysis results, the agency engaged i.e. M/s VSI, Pune may consider the same to assess the extent of contamination and also while preparing remedial measures thereto.*

5.0 Recommendations

Based on the joint committee inspection, observations & findings w.r.t environmental management system installed for treatment of effluent and present compliance status w.r.t. collection & management of molasses contaminated water & soil; the industry may be directed through MPCB to:

i. Immediately expedite the execution of work w.r.t. carrying out soil *contamination assessment study including damages to recipient environment and remedial measures thereto. Further, to ensure the implementation of recommendations if any; of aforesaid study report in a time bound manner and be verified by MPCB.*

ii. *Distillery operations shall not be permitted during the present season until the remaining spent wash contaminated water stored in the 30 days lined spent wash storage lagoon; old brick lined spent wash storage lagoon and leachate collection pit of bio-compost yard, are*

completely treated in the existing ETP of distillery i.e. through UASB (bio-digester) followed by concentration in MEE. Resultant concentred effluent shall be utilized in preparation of biocompost along with press mud.

iii. *Expedite to make an application to the Competent Authority i.e. SEIAA, Maharashtra for obtaining Environmental Clearance (EC) for expansion of cane crushing capacity from existing 3,500 to 7,500 TCD. Further, till expansion EC is obtained from SEIAA, Maharashtra the cane crushing capacity may be restricted to the consented capacity of 3,500 TCD as per CTO of MPCB.*

iv. *De-sludge the accumulated sludge from the old brick lined spent wash storage lagoon and the sludge shall be managed in existing sludge drying beds of ETP. The dried sludge may be proportionated with press mud for preparation of bio-compost, upon examining the feasibility through the aforesaid engaged agency i.e. M/s VSI, Pune. Also, to dismantle the old brick lined spent wash storage lagoon before starting distillery operation.*

v. *Provide adequate free board to the 30 days lined spent wash storage lagoon. Also, to always keep the level of spent wash in the 30 days lined spent wash storage lagoons well below the upper ridge of the lagoon so as to ensure no possibility of run-off/overflow.*

vi. *Ensure that concentrated spent wash generated shall be completely utilized in preparation of bio-compost during non-monsoon season i.e. within 270 days of total operational period. Further, at the end of each season accumulated sludge shall be removed and managed in existing sludge drying beds of ETP. Upon start of distillery season, the dried sludge may be proportionated with press mud for preparation of bio-compost.*

vii. *Obtain valid registration/certification for the production and ensure the quality of bio-compost (bio-enriched organic manure) as per Gazette Notification SO. 2776 (E), dated 10/10/2015 under the Fertilizer (Control) Fourth Amendment order, 2015 issued by Ministry of Agriculture and Farmers Welfare (Dept. of Agriculture, Cooperation and Farmers Welfare.*

viii. *Ensure compliance of show-cause notice dated 29.09.2022 issued by MPCB w.r.t. dismantling of 04 no. of old biolers.*

ix. *In order to prevent the re-occurrence of explosion/blast of molasses storage tank: necessary safety audits especially w.r.t structural stability shall be conducted through the competent person before staring of cane crushing/distillery operations. Also, adequate online water cooling and stirring mechanism may be provided to ensure the optimum temperature inside the molasses storage tank.*

x. *Dyke area of sound construction should be provided to the storage tanks. wherever possible, so that all contents of the tank, in case of partial or full rupture accident, can be enclosed in the dyke. Each dyke should have roads all around for access during emergency scenarios. In case such dykes are not possible, necessary arrangement shall be in place to contain spillages from such tanks and channelizing the same to a safe impervious storage facility within the plant premises."*

20. The said report was considered by this Tribunal in its order dated 10.11.2022 and in terms of the observation made therein it is found apparent that seepages and leakage was found near the ETP area of sugarcane unit i.e. compound wall of the industry leading to natural drain. The counsel for the Project Proponent had drawn our attention to the fact that an accident had taken place in the distillery unit of the respondent

no. 1, regarding which interim directions were issued by MPCB, in which it was mentioned that the industry shall carry out assessment of contamination, cost of remediation and damage assessment through NEERI/IIT/VSI within two months and that the industry shall comply with the recommendations of the report submitted by the institute within six months. It was also directed that the industry shall ensure OCEMS connectivity to MPCB server within seven days and shall also not dispose of spent wash sludge to any party. Respondent no. 1/PP submitted the report of VSI regarding damage assessment dated 10.08.2023 which is annexed at Page 352 of paper book to Page 455, relevant part of which is quoted hereinbelow:

> ***"6.0 Damage assessment and monetization***
>
> ***6.1. Water environment***
>
> *The test reports of ground water samples collected from an area where molasses spread occurred compared with representative samples where spread doesn't occur or at a far distance. From these results it was observed that, at present the impact of molasses on ground water environment got mitigated. Important pollution parameters such as pH, COD, BOD indicate the ranges in normal or very mildly polluted. The pollutants might have diluted and partially carried away due to rains. Further, dilution might have also occurred by subsoil (Below surface) streams of respective dug wells.*
>
> *Therefore, monetizing the damage of water environment, carried out using* ***shadow pricing mechanism. In this method, the estimation of the distance function enables us to obtain the shadow price of the undesirable outputs. In this case the undesirable output considered as BOD and COD values that are the major indicator***

of pollution. This method is originally described in a research paper published by F. Hernández-Sancho et al. (2010). In their study, these researchers considered nitrogen, phosphorous, suspended solids, BOD and COD as undesired output of sewage treatment plants in their studies. This is mainly because the cost involved in removing these undesirable components is considerable in order to reuse the sewage. Hence, the considered the cost as environment benefit cost and interpreted the results. However, in the present case, ground water and soil is affected due to accidental release of the molasses. Strength of liquid pollutant is usually measured in BOD and COD. While estimating COD, the demand of oxygen for oxidation of inorganics is get covered. Therefore, in the present study estimating cost for the inorganic may lead to duplication of the cost for same pollution. In other words, the damage cost due to inorganic also gets covered through COD value. Therefore, COD and BOD considered as important parameter for damage cost estimation.

Reference F. Hernández-Sancho et al. / Science of the Total Environment 408 (2010) 953–957 (Enclosed as annexure to the report for ready reference) *(described on page 40 of Framework for Environmental Damages Cost Assessment by NEERI).*

Table 6.1: Monetization calculations as per the said method

Important parameter considered	Test Value (kg/ton - rounded average basis)	Total discharge value
Chemical oxygen demand (COD)	63	63 kg/T x 4000 tons = 252,000 kg
Bio-chemical oxygen demand (BOD)	23	23 kg/T x 4000 tons = 92,000 kg

	Damage cost in €/kg (2010)	Total discharge value of pollutant	€/Rs rate for April 2023 (max)	Damage cost In Rs – (rounded to nearest number)
Chemical oxygen demand (COD)	0.140	252,000 kg	91.0386	32,11,842.00
Bio-chemical oxygen demand (BOD)	0.058	92,000 kg	91.0386	4,85,782.00
TOTAL				36,97,624.00

6.2 Soil environment

While estimating damage cost for soil environment of the accident affected area, following points were considered.

- *Duration of spread of the pollutant in the soil*
- *Nature of the pollutant for soil environment*
- *Percolation of the pollutant and its present status in subsoil layers or levels*
- *Long term impact associated with the pollutant released*

There is no evidences or record available to ascertain the period of accumulation of pollutant in the soil. According to the factory officials, they scrapped the molasses from field using available bagasse and removed it to maximum extent in 10-12 days after the accident. Hence, it is presumed that molasses spread was observed for two weeks. Considering the organic nature of molasses and its high content of potash, makes it difficult to distinguish undesirable

components. Even, the acidic nature of the molasses might have helped in reducing soil alkalinity which is reported in the samples collected from non-affected area.

Therefore, the accidental spread of molasses on soil perceived as an impact due to high COD, BOD of molasses. The same amount i.e. Rs. 36,97,624.00 (Rupees thirty-six lakhs ninety-seven thousand six hundred twenty-four) is suggested as a damage cost.

6.3 Geo-physical report

From the resistivity surveys it is inferred that throughout the area from surface downwards up to depth of 25 meters the strata are highly weathered and conducive for water infiltration and therefore the infiltration of the molasses released during the disaster and may have contaminated the groundwater present in the area. This contamination might have occurred immediately after the accident. However, the samples of ground water collected during the study reveals almost traces of pollutant in the collected samples. These pollutants may be due to local contamination.

As far as the damage assessment concerned, the damage due to discharge of molasses having very high COD, BOD into the ground water and soil is already monetized (Refer table 6.2). It covers the contamination of ground water which is monitored and geo and hydro-geo studies. Therefore, no additional damage cost from geological and hydro-geological perspective is proposed here.

6.4 Crop and agriculture

In this case, there is no specific data available for quantification of crop damage. It was observed from the data provided by the factory officials, MPCB site visit record covered site specific conditions

observed at that time. However, there is no any mention of how many dug wells were affected due to the accident? How much soil observed damaged due to molasses spread? How many crops suffered the impact of accident? ***Through this report we request the concerned authorities to prepare a standard operating procedure/s (SOPs) and develop related format/s to record the damage in all future cases (applicable to even other industrial accident cases).***

6.5 Wild Flora and Fauna

During the initial preliminary visit to site in Dec. 2022, there were five eucalyptus trees found dried and dead, just outside the boundary-wall of the accident site. Acidic pH of the molasses and its temperature might be the reason for the death of those trees. These trees were not observed during actual damage assessment survey. Therefore, its diameter and related parameters for estimation of its volume were not available. This data serves as an input to estimate the cost of the tree.

Therefore, this damage assessment is carried out based on the reference where cost was recovered for damaging trees. The said reference is enclosed as Annexure IV. The cost charged per tree is Rs. 41,750/-. Considering the same, cost for damaging five trees is Rs. 2,08,750/-.

Table 7.1: The damage assessment and preventive/mitigation measures cost

	Particular	Cost/provision (Rs)
Damage Cost	Cost of damage due to accidental discharge of molasses into the ground water of nearby areas	36,97,624.00
	Cost of damage due to accidental discharge of molasses into the soils of nearby areas	36,97,624.00
	Cost of damage to flora/trees due to accidental discharge of molasses	2,08,750.00
Preventive measures provision	Provision for implementation of preventive and mitigation measures	75,00,000.00
Mitigation measures (additional) through CER	Provision for implementation of CER activities	51,00,000.00
	TOTAL	2,02,03,998.00
	Rupees two crores two lakhs three thousand nine hundred ninety eight	

"

21. Respondent no. 1/PP had raised objection against the said report which was considered by us in our order dated 20.01.2026 in depth, and the objection was overruled and we have held after consideration that there was no infirmity in the said report as regards collecting the samples by VSI and to that extent the said report was upheld.

22. We heard the final arguments of the learned counsel for the parties. Respondent no. 1/PP has submitted its reply dated 10.01.2023, wherein denying the allegations made by the applicant, it is submitted that the respondent no. 1 was granted a "Renewal of Consent for 3500 TCD with Amalgamation of 26 MW co-generation unit, under RED category" dated 23.12.2021 by the respondent no. 2-MPCB which was valid upto 31.07.2022. Under the said consent, the MPCB had imposed conditions under Water (Prevention and Control of Pollution) Act, 1974 for the discharge of effluents. In pursuance thereof, respondent no. 1 was permitted to generate 398 CMD of trade effluent, out of which 48 CMD was to be 100% recycled and 350 CMD was to be used on land for irrigation as well as 45 CMD of domestic effluents was to be disposed on land for gardening. The industry has been abiding by the terms and conditions regarding disposal of 350 CMD of trade effluent which was to be used on land for irrigation. Respondent no. 1 has entered into multiple bilateral agreement with the farmers of surrounding area to directly supply processed water to them for purpose of irrigation. For the disposal of 45 CMD domestic effluents, the respondent no. 1 has been reusing and recycling 45 CMD of domestic trade effluents for the purposes of gardening and in the interregnum, has undertaken tree plantation on 68,480 sq. mts of land and has planted around 15,000 trees within the premises as well as outside it. This industry is systematically processing the waste/sludge

water within its premises by treating it in the ETP and thereafter the processed water is supplied to nearby farmers who have entered into bilateral agreements with them.

23. But an unfortunate accident had occurred at molasses storage tank on 10.02.2022. The applicant, using this incident as a basis to show continuous violation by respondent no. 1, has misguided this Tribunal, alleging that environmental damage was caused due to pollution by the activities of the industry, which is wholly denied.

24. It is further mentioned that the present O.A. has become infructuous in the light of "Renewal of Consent dated 18.11.2022 for 30 KLPD Molasses based distillery under Red category" and "Renewal of Consent dated 11.11.2022 for 3500 TCD sugar and 26 MW co-generation unit, under Red category" granted by respondent no. 2-MPCB. It is mentioned that M/s VSI, Pune has carried out assessment for contamination of the affected area due to the Molasses Tank accident. M/s VSI Pune had not provided a copy of report on 'assessment of contamination' to the respondent no. 1. The said report was being awaited by the respondent no. 1.

25. In order to assess the compliance of the renewal of consent dated 08.11.2022 and 11.11.2022, MPCB conducted a site visit on 06.01.2023 but no adverse order was passed against respondent no. 1. Respondent/industry was permitted to continue its operations.

26. The respondent no. 2 has filed reply dated 09.01.2023 wherein it is mentioned that pursuant to the complaint received from the applicant they visited the sugar and distillery unit of respondent no. 1 on 06.01.2023 and following position was found:-

" ***(i) Sugar Unit:***

a) During visit the sugar industry is in operation.

b) The sugar unit has provided primary, secondary and tertiary treatment for trade effluent, which was found in operation at the time of visit and the treated effluent is used for irrigation purpose nearby farmers land.

c) The industry is having one no. of boiler with capacity 140 TPH with ESP stack of height 73.0 meters at APC. During visit, the same is in operation.

d) The industry is having 4 nos. of old boilers, but during visit the same is not in operation and process of scrapping of the same is in process.

e) The industry is having 01 no. of Kaccha pit and process of scrapping of the same is in process.

(ii) Distillery Unit:

a) During visit, the distillery unit is not in operation. The industry has provided bio-disaster followed by MEE and bio-composting for trade effluent, only bio-composting process is in operation by using previous Spent Wash.

b) The industry has installed one no. of molasses storage tank.

c) The industry has appointed VSI, Pune for assessment of contamination, cost of remediation and damage, the work of the same is in progress."

27. Thereafter, the amount of EDC has been calculated to the tune of Rs. 84,70,000/- for the number of 282 days violations which is quoted

hereinbelow:

"

	Environmental Compensation(EC) untreated / Partial treated sewage					
1	PI	Pollution Index of industrial sector (Consent categorization)	Red	Orange	Green	
			80	0	0	
2	N	Number of days of Violation took place	282			
3	R	A factor in Rupees	250			
4	S	Scale (LSI=1.5,MSI=1,SSI=0.5	1.5			
5	LF	Location Factor [Population in million , less than 1=1,1 to less than 5=1.25, 5 to lees 10=1.5,10 and above=2	1			
	EC in Rs.	PI *N*R*S*LF	84,70,000	0	0	

Date of Proposed Direction	**09.02.2022**	**No of Days- 282**
Date of Direction of Stoppage operation of the sugar	**10.02.2022**	
Date of Show Cause Notice for Closure Direction	**29.09.2022**	

* EC Calculated from the date of PD dtd.09.02.2022 to last visit along with CAG Auditor dtd. 17-11-2022 Nos of Days of Violation-282

"

28. Accordingly, the MPCB had directed the Project Proponent to deposit an amount of EDC of 84,70,000/- alongwith compliance of other directions.

29. Rest of the affidavits which were found on record, have already been considered by us while taking a decision with respect to the VSI report. Therefore, we need not take them into consideration again here.

30. The main thrust in the present case is laid on realisation of amount of EDC from the Project Proponent for the damage caused to the environment due to its activities. It may be clarified here that the accident had happened in the distillery unit of the respondent no. 1 and not in sugar unit. The consent to operate to the distillery unit was given on 03.02.2021 which is referred at Page no. 211 of the paper book. The first show cause notice/proposed directions were issued on 09.02.2022, annexed at Page no. 49 of the paper book. Therefore, the period between

03.02.2021 to 09.02.2022 would be treated to be a period of violation on the part of respondent no. 1, because the show cause notice contains direction that CPU was not completed and the seepages and leakage was observed near the pacca lagoon and the same was going into kaccha pit leading to the water pollution, which in our estimation would be treated to be a serious violation. This show cause notice/proposed direction is annexed at Page no. 49 of the paper book. Now, we have to decide as to whether for this period a separate amount of EDC should be levied from the Project Proponent or would the pollution which happened in this period would be treated to be included in the same which has been assessed by the VSI. It may be made clear that VSI had made a detailed assessment with respect to pollution status of water, soil and damage to flora and fauna etc. so, if any pollution might have happened earlier due to violation, the same would certainly reflect in water and soil contamination status assessed by the VSI and proposed cost of remediation and mitigation in its report. Therefore, in our estimation whatever amount has been finally calculated by the VSI should be treated to be the correct calculation of the amount of EDC, which may be ordered to be levied from the Project Proponent. We may also make it clear that no other issue was raised neither by the applicant nor by the respondent in the case in hand.

31. In view of above, we dispose of this application with following direction: (i) the Project Proponent/respondent no. 1 to deposit an amount of Rs. 1,06,07,090 (one crore six lakhs seven thousand and ninety) with MPCB within a period of two months from the date of uploading of this order. The said amount shall be utilised for restitution of the site in question and for its upliftment. (ii) In addition to above, the estimated cost of Rs. 75,00,000 and Rs. 51,00,000 suggesed by VSI for preventive

measures and remediation/mitigation measures respectively, shall be spent by the PP-respondent no. 1 as per recommendation of VSI at paperbook page no. 450-451 and compliance status shall be submitted to MPCB along with annual Environment Statement Report till full compliance of the aforesaid measures. (iii) MPCB, in consultation with concerned authorities, shall prepare and issue Standard Operating Procedure (SOP) within three months for recording the damage to crop and agriculture in a scientific and objective manner in case of any industrial accident in future. A copy of the said SOP, once issued, shall be submitted to the Registry of this Tribunal.

Dinesh Kumar Singh, JM

Dr. Sujit Kumar Bajpayee, EM

February 24, 2026
Original Application No. 85/2022 (WZ)
F.K