

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE, CHENNAI**

**Appeal No 10 of 2020**

**M/s. Fatima Poultry Farm**

**....Appellant**

**Vs**

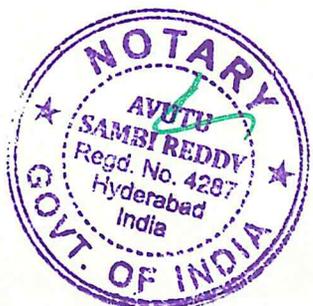
**Telangana State Pollution Control Board  
and 2 Ors**

**....Respondent**

**REPLY FILED BY THE 1<sup>st</sup>RESPONDENT**

The 1<sup>st</sup> respondent, Telangana State Pollution Control Board, states as follows:

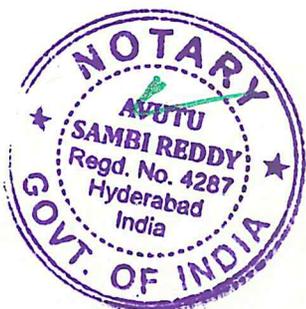
1. The 1<sup>st</sup> respondent denies all the allegations, averments and statements contained in the Appeal as false and incorrect, except those specifically admitted herein.
2. The above Appeal No. 10 of 2020 has been filed praying to set aside the order of the 1<sup>st</sup> respondent in Proceedings No. Order No3-Complaint/TSPCB /RO.1-RRD/2019-454 Dated 27.09.2019 directing the closure of the Appellant's establishment and to set aside the consequential order of the respondent No 1 to the respondent No 2 herein in proceedings No. Order No. 3 - Complaint/TSPCB /RO.1-RRD/2019-455 also dated 27.09.2019 for disconnection of electricity to the Appellant's establishment and for a direction to restore the same.
3. This 1<sup>st</sup> respondent states and submits without prejudice to any of the contentions raised as regards the merits of the instant appeal, that the instant appeal is not at all maintainable before this Hon'ble Tribunal as the impugned order is a combined or composite order issued under the provisions of the Water Act and the Air Act as against which no appeal is provided for before this Hon'ble Tribunal and in



  
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such circumstances, the appeal is not at all maintainable and ought to be dismissed in limine.

4. The 1<sup>st</sup> respondent further states that without admitting that the appeal can be filed before this Hon'ble Tribunal, even assuming such an appeal can be filed it is submitted that the above appeal is clearly barred by time and ought not to be entertained by this Hon'ble Tribunal. The impugned order challenged in the appeal was issued on 27/09/2019 and served on the appellant on the same day and no appeal within the statutorily permissible period of 30 days was filed by the appellant and no appeal was filed within the further condonable period of 60 days. The appeal has been filed only on 10/02/2020 that is after lapse of about 135 days and in such circumstances the appeal is clearly barred by time and the condone delay petition in I.A.No:26 of 2020 ought not to have been entertained at all by this Hon'ble Tribunal. The reasons set out by the appellant that he had been pursuing the writ petition in W.P.No:22353 of 2019 before the Hon'ble High Court of Telangana for excluding the time spent before the High Court is wholly untenable and inappropriate. Firstly, the Writ Petition is the correct remedy and it cannot be said that the Hon'ble High Court was not having jurisdiction to decide the matter as the order challenged is a combined and composite order under two enactments viz. the Water Act and the Air Act and no appeal lies to this Hon'ble Tribunal. Secondly, the appellant filed the appeal before this Hon'ble Tribunal even when his Writ Petition was pending and therefore was pursuing parallel remedies in abuse of process and it is not as though he came to know of any alleged defect in jurisdiction of the Hon'ble High Court on his writ petition being disposed accordingly. On the other hand, the Writ Petition was withdrawn on 07/08/2020 only much after the filing of the instant appeal and even while withdrawing the Writ Petition, no liberty was obtained for pursuing the appeal before this Hon'ble Tribunal. From the record of the proceedings in the writ petition, it appears that he had to withdraw the same as the appellant was in contempt of his own undertaking given to the Hon'ble High



  
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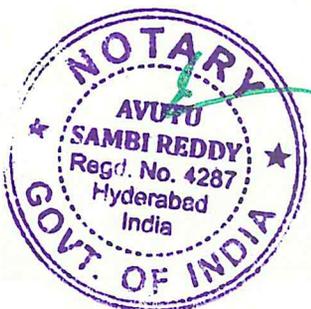
Court dated 06/12/2019 to vacate the birds from the poultry farm and that he shall not operate the poultry farm unless the appellant obtains the express consent from this respondent herein. Therefore, it can be seen that there was no bonafide on the part of the appellant at all in pursuing the writ petition and the entire averments and allegations on this aspect are false and incorrect and no grounds have been made out by the appellant for either condoning the delay or maintaining the appeal.

5. It is submitted that the Telangana State Pollution Control Board (TSPCB) received a complaint dated 24.06.2019 from the Respondent No.3 i.e. Banyan Tree Retreat Owners Welfare Association complaining of Air Pollution and odour problem created by the activities of the appellant.
6. The 1<sup>st</sup> Respondent submits that the TSPCB officials made an inspection on 02.07.2019 and found that the poultry farm is operating without obtaining valid consent from the Board even though the volume of the birds available at the time of inspection was more than 1,00,000 birds and required obtaining of consent from the Board as per the guidelines issued by the CPCB. The poultry farm is having 6 Nos. of sheds out of which 4 sheds of 28,000 birds each and 2 sheds of 15,000 birds each were functioning. The total number of birds available was 1,42,000 Birds and that the poultry farm is located just adjacent to BTR Gated Community comprising of 400 villas and that odour was also observed in and around the poultry farm, that the smell nuisance is very much persistent in the villas just adjacent to the boundary walls of the poultry farm where dead birds are discarded. It was also observed that the poultry farm is being operated by violating the guidelines prescribed by the Central Pollution Control Board (CPCB).
7. The 1st Respondent submits that the Board then issued Show Cause Notice to M/s. Fatima Poultry Farm dated 06.07.2019, vide



  
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- Lr. No.3/Complaint/PCB/RO1-RRD-2019-222. On 03.08.2019, M/s. Fatima Poultry Farm had sent a Reply without any substance or material. However there is no denial in the Reply that they are running the poultry farm with 1,42,000 birds.
8. The 1st Respondent further submits that On 05.09.2019, TSPCB sent a letter to M/s. Fatima Poultry Farm directing them to appear before Task Force Committee Meeting (legal hearing) to be held on 13.09.2019. However, the appellant has not preferred to attend the said meeting on that day, despite acknowledging the intimation dated 05.09.2019 and also a personal call. After detailed deliberations and careful consideration of material facts of the case, the Committee recommended to issue closure orders to the poultry farm on 27.09.2019.
9. The 1st Respondent further submits that the Board has issued Closure Orders Dated 27.09.2019 to M/s. Fatima Poultry Farm, Sy.No. 225(Part) & 228 (Part), as the industry is operating without having necessary permissions and not provided adequate air and water pollution control measures and causing water, air pollution and smell nuisance in the surrounding area, thereby affecting the public health and environment. It is also informed that, the Board served disconnection of power supply orders only after the inspection on 02.07.2019 and found that the poultry farm is operating without obtaining valid consent from the Board.
10. It is humbly submitted that the Appellant M/s. Fatima Poultry Farm has filed W.P. No. 22353 of 2019 before the Hon'ble High Court of Telangana challenging the Closure Orders issued by TSPCB and also order of disconnection of power supply. Initially, the Hon'ble High Court by an order dated 14.10.2019, granted interim stay of disconnection of power supply to the poultry farm for a period of 10 days and subsequently the said Interim Order was extended on 25.10.2019 and 08.11.2019 and ultimately on the basis of an Affidavit



  
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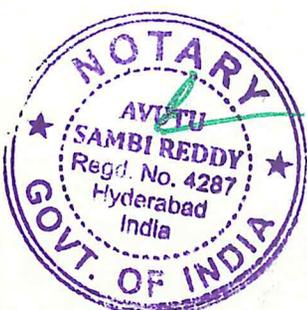
filed by the Proprietor of the Poultry Farm, thereby undertaking to shift and relocate the birds from the Poultry Farm, the Hon'ble High Court has passed the following order dated 06.12.2019:

*“In view thereof, 6 weeks time is granted from today to relocate the birds from the present poultry farm. There shall be further direction to the 3rd respondent –TSSPDCL, Rep. by its Superintendent Engineer(Operations) to restore the power supply to the poultry farm to the Petitioner forthwith. The said power supply shall be continued only for a period of 6 weeks from today. On expiry of six weeks, it is open for the 3rd Respondent to cause disconnection of power supply without any further notice to the Petitioner.”*

*“In case of default on the part of the Petitioner in shifting the poultry farm within the time granted by this court, it is open for the 2nd Respondent (TSPCB) to take appropriate action in accordance with law in terms of impugned order dated 27.09.2019 for closure of poultry farm.”*

11. It is humbly submitted that while so, in gross violation of the undertaking given to the Hon'ble High Court, the appellant has continued the poultry activities even after the expiry of six weeks period and as such TSPCB has addressed a letter dated 29.02.2020 to disconnect the Power Supply to the poultry farm. Even after the disconnection, the appellant was running the poultry farm by using alternate sources of power supply, i.e. solar power panels which was noticed during the inspection conducted on 17/06/2020. The same shows the attitude and the conduct of the appellant in not minding or respecting the Court orders or the orders issued by this Board and acting in violation of his own undertaking.

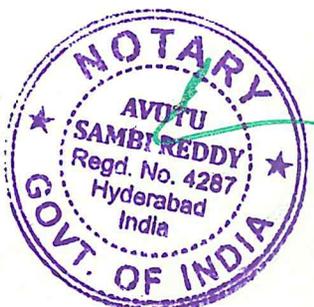
12. It is further submitted that inspite of the Hon'ble High Court's order dated 06.12.2019 that the poultry farm shall relocate the birds within 6 weeks time which expired on 17.01.2020, the appellant continued to function at the same place till about 21<sup>st</sup> July, 2020. It is submitted that in the meanwhile, the appellant had made an application on 14.01.2020 to the TSPCB for issuance of CFO for Poultry Farm through TSOCMMS vide Application No. 2341317 and the



  
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CFO application of the M/s. Fatima Poultry Farms was Rejected vide letter dated 11.06.2020 for the following reasons:

- a. The poultry farm is located at Sy. No. 225(part) & 228 (part), Beside BTR gated community, Thummaluru (V), Maheshwaram (M), Rangareddy District.
  - b. During inspection, it was observed that, the power was disconnected in the poultry farm but the poultry farm was in operation without power supply.
  - c. Hon'ble High Court in the order dated: 06.12.2019 stated that, the poultry farm shall relocate the birds within 6 weeks time which was expired on 17.01.2020. Further, the poultry farm is having 6 Nos. of sheds out of which 4 x 28,000 birds each shed, 2 x 15,000 birds each shed. Thus a total capacity of 1,42,000 birds.
13. It is respectfully submitted that the appellant has accepted the said rejection order dated 11/06/2020 as the same has not been challenged in a manner known to law and in the light of the same, the instant appeal has become infructuous and nothing survives in this appeal to be determined or adjudicated.
14. It is humbly submitted that during inspection by the board on 17.06.2020, it was observed that the power supply was disconnected to the poultry farm but the poultry farm was in operation without power supply by using Solar power panels which is also in violation and disregard of the Orders of the Hon'ble High Court by illegally using alternate source of power supply.
15. It is further submitted that The BTR Owners Welfare Association filed a Contempt Case in C.C. No. 332 of 2020 against M/s. Fatima Poultry Farm and also the Electricity Department for deliberately



  
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violating the Order dated 06.12.2019 passed in W.P. No.22353 of 2019. The said contempt petition is also pending.

16. It is further submitted that the present Appellant filed WP No.10680 of 2020 challenging the Proceedings dated 07.07.2020 and sought for a direction to the Tahsildar not to seize the Poultry Farm. However, no Interim Order was passed in the said Writ Petition. subsequently on 07.08.2020, M/s. Fatima Poultry Farm had withdrawn both the Writ Petitions i.e. W.P. No.22353 of 2019 and 10680 of 2020. The same appellant having filed the writ petitions and having withdrawn the same without any liberty to move this Hon'ble Tribunal is bound by the orders passed by the Hon'ble High Court in the matters and cannot be permitted to re-litigate on the same issue and the same is in complete misuse and abuse of the process of law.

17. It is further submitted that in O.A.No:681 of 2017, the Hon'ble Principal Bench of this Hon'ble Tribunal has passed orders on 16/09/2020 directing the CPCB to revisit the guidelines for categorizing the poultry farms within three months and in the event no further order is issued that all the State PCBs/PCCs will require enforcement of consent mechanism under the Water and Air Acts after 01/01/2021 for all poultry farms above 5000 birds in the same manner as is being done for farms having more than one lakh birds.

18. Therefore, it is most respectfully submitted that the appeal is not maintainable, barred by limitation, devoid of merits and deserves to be dismissed in limini.

19. It is therefore most humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Appeal and pass appropriate orders in the interest of justice.

Dated at Hyderabad on this the 2<sup>nd</sup> day of March, 2021.

Counsel for 1st Respondent

  
1<sup>st</sup> Respondent

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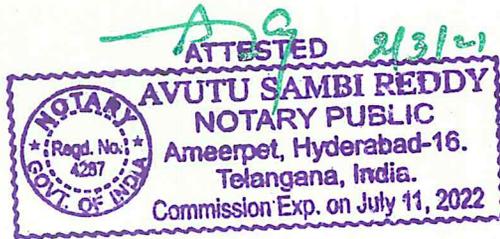


**VERIFICATION**

I, , M.Venkanna, S/o.M.Rangaiah, aged 48 years, Occ. Environmental Engineer, TSPCB, R/o Hyderabad of the 1st Respondent i.e., Telangana State Pollution Control Board, do hereby verify that what are all stated above are true and correct to the best of my knowledge, information and belief.

Verified at Hyderabad on this the 2<sup>nd</sup> day of March, 2021.

  
**1<sup>st</sup> Respondent**  
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Regional Office - I, R.R. District.



**BEFORE THE NATIONAL GREEN  
TRIBUNAL, SOUTHERN ZONE AT  
CHENNAI**

**Appeal No. 10 of 2020**

**REPLY FILED BY THE 1st  
RESPONDENT**

**T. Sai Krishnan  
Counsel for 1<sup>st</sup> Respondent**