

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI

O. A. NO. 64 of 2016 (WZ)

Akhil Bhartiya Mangela Samaj Parishad Applicant

V/S.

Maharashtra Pollution Control Board & Ors Respondents

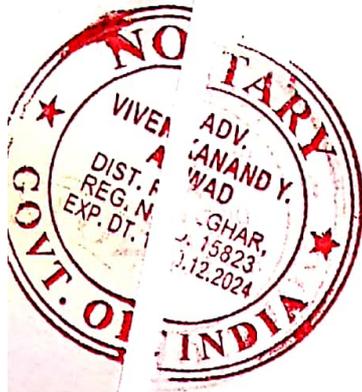
REPLY AFFIDAVIT/ OBJECTIONS FILED
ON BEHALF OF RESPONDENT NO. 3
(TEPS) TO THE STATUS REPORT DT.
11.01.202 FILED BY COMMITTEE

Gajanan Sahebrao Jadhav, Age-51 years, Occupation- Service,
working as CETP-Manager managed by Tarapur Environment
Protection Society [TEPS] i.e., the Respondent No.3 herein
having office at Plot No. AM-29, MIDC-Tarapur, Dist-Palghar,
do hereby solemnly affirm and state as under: -

1. That TEPS has already filed in the present matter, its
detailed objections to the earlier Committee Reports dated
18.06.2020 and 27.07.2020 under M.A. No. 01 of 2021 filed
on 29.12.2020. I say that thereafter, TEPS has also filed an
affidavit of compliance dated 04.01.2021 in so far as steps
taken by TEPS during period October 2020 to December
2021 towards environment protection measures undertaken.

Aforesaid objections and affidavit are already part of the record and in order to avoid repetition, TEPS may please be permitted to rely and refer to the contents of the said objections/ affidavit of compliance, as part and parcel of the present objections, as certain issues are interlinked and the objections raised under M.A. No. 01 of 2021 hold true even against the subsequent Status Report dated 11.01.2021, which is being responded under the present reply.

2. I say that the Status Report dated 11.01.2021 is filed by the Committee, without considering the Statement of Objections filed by TEPS under M.A. No. 01 of 2021 or the Affidavit of Compliance dated 04.01.2021 as stated above. I say that admittedly Committee has not filed any reply/ response to the Statement of Objections, despite liberty was granted by the Hon'ble Supreme Court under order dated 14.12.2020 passed in Civil Appeal No. 3638 of 2020.
3. I say that contents of the Status Report dated 11.01.2021 are inadmissible in view of the fact that Committee failed to prepare and finalize remediation action plan, within one month, as directed by this Hon'ble Tribunal in its order dated 17.09.2020. Committee has not associated with or engaged any expert institute to decide and implement a clear, well-defined remediation action plan till date. The



Status Report can not therefore be relied as conclusive report or be treated as an action plan of the Committee's work and/or be used in evidence against the Respondent No.3. I say that TEPS (Respondent no.3), without admitting validity or admissibility of the said Status Report, is recording its further objections about the contents thereof.

4. I say that Committee has once again erred in merely placing reliance on the data, allegedly provided by MPCB and other agencies, without verifying any details thereof. TEPS does not admit the alleged breaches/ violations on its part. I say that the issue of excess load on TEPS – CETP is not addressed by the Committee and left it open. I say that there is no analysis or any efforts on part of the Committee to observe, identify and address the actual and factual causes of excess effluent which goes to the root of this matter. Despite TEPS having filed its detailed objections, raising issue of violations on part of ZLD and SSI units (reliance is placed on Annexure R-3/3 Ground A(iv) and (vi) as well as Ground E (particularly Ground E(iv)) of the Grounds of Objections dated 29.12.2020 filed by TEPS, the Committee has ignored all of it and continues to make TEPS-CETP as a scapegoat.
5. I say that in this regard, TEPS has yesterday received copy of the show-cause notice issued by MIDC to one of the ZLD

units, who were found to be unauthorizedly discharging effluent despite having registered as zero discharge unit, and the same is extremely relevant for consideration by this Hon'ble Tribunal. I say that hereto marked and annexed as **Exhibit-1** is the copy of the said notice dated 19.03.2021 received by TEPS on 31.03.2021. I say that TEPS has been consistently highlighting such violations, which are root cause of excess effluent load on CETP, which fault can not be made attributable to TEPS, but to the regulatory bodies. I say that Committee's decision to exempt all ZLDs and SSI units from any liability and providing them an umbrella protection by penalizing TEPS (CETP) is against an established 'polluter pays' principle as elaborately stated in Ground (B) of the Grounds of Objections dated 29.12.2020. The said error of the Committee continues to have reverse/ adverse repercussions on every remedial measure/ activity undertaken by TEPS for the environment protection. I say that the Status Report dated 11.01.2021 continues to suffer from the same error.

6. I further place my reliance on Para/ Chap 3 Clauses 3.1(a) to (g) of the Status Report dated 11.01.2021 r/w. its Annexure II. I say that Committee has duly admitted and acknowledged various steps taken up by TEPS and several



work items completed by TEPS during the reported period. It is therefore strange and contradictory on part of the Committee to recommend closure of 25 MLD CETP, which as observed in Clause/ Chap 4 of the Report. Such recommendation/ opinion of the Committee is in total variance with discussions that took place during joint meetings attended by TEPS with the Committee. TEPS therefore vehemently objects to the said recommendations/ conclusion of the Status Report dated 11.01.2021 filed by the Committee.

7. I say that, careful reading of the Status Report further denotes admitted failure on part of Regulators (MPCB) to identify polluting units despite joint inspections undertaken by MPCB vigilance team. Status Report also acknowledges the fact about CETP continuing to receive shock loads beyond its capacity. Thus it is incumbent upon Committee to identify and target the sources of such shock loads and not to shut-down the CETP as allegedly recommended. Such opinion/ recommendations are against the environment protection initiatives that TEPS has undertaken.
8. I further say that the Committee has also observed old / damaged effluent carrying pipeline, which is being under control and maintenance from MIDC. There are directions



issued to MIDC in Para 4(v) of the Status Report. I say that hereto produced and marked as **Exhibit B** is the list of breakdown incidences reported by MIDC in last 3 years. I say that this fact is relevant to the issue of industrial effluent mixing with storm/ drain water. The Status Report however fails to take any cognizance of constant breakdown of effluent pipeline. The responsibility and any alleged liability arising therefrom needs to be apportioned to MIDC alone. The said issue is also highlighted by me in the Ground E (x) of the Grounds of Objections dated 29.12.2020 filed before.

9. I say that Committee has once again, while preparing its alleged Status Report dated 11.01.2021, remained silent on failure of MIDC to complete the discharge pipeline (7.1 kms deep in to the sea) to enable TEPS to start its 50 MLD plant to its fullest capacity. The issue is earlier raised in Ground E (ix) of the Objections to the earlier reports of the Committee. I further say that there is absolutely no consideration even in the said Status Report about new 50 MLD CETP, which actually has to be treated as a major highlight of the remediation action plan for effluent treatment at Tarapur MIDC. The issue of non-consideration of 50 MLD CETP is also raised in Ground F of the Objections dated 29.12.2020 filed against the earlier reports.

10. I say that Status Report thus suffers from the same set of lacunas (legal and factual errors) as pointed out vide Statement of Objections filed under M.A. No. 01 of 2021.
11. I say that the TEPS has been bonafidely acting in the matter to take all possible steps to implement its own remediation measures. TEPS has also deposited with the appropriate Authority, an amount of Rs. 21,69,44,100/- (30% of the compensation deposited as per directions of the Hon'ble Supreme Court), which is a substantial money in addition to the all the costs and expenses including project cost of Rs. 150,00,00,000/- already spent by TEPS for planning, executing and implementing 50 MLD CETP project. I say that it is thus surprising that the Committee remains silent on important role played by TEPS, which in itself exposes the limitation of all the Reports submitted by the committee thus far in the present case.
12. I say that in view of the objections raised hereinbefore, the Status Report dated 11.01.2021 filed by the Committee may only be considered along with hearing of the Grounds of Objections dated 29.12.2020 filed by TEPS to the main report dated 18.06.2020 and after considering all other facts,

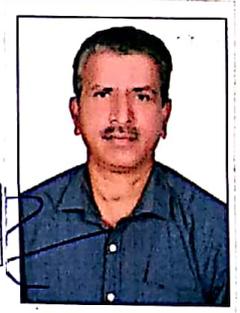


circumstances, pleadings and points of legal, technical and scientific relevance involved in the case.

WHATEVER STATED BY ME HEREINABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND AS PER THE RECORDS AVAILABLE WITH THE RESPONDENT NO. 3 AND IN WITNESS WHEREOF I HAVE SIGNED HEREUNDER ON THIS 1ST DAY OF APRIL 2021 AT TARAPUR/ BOISAR, DIST- PALGHAR

NOTARY
ADV. VIVEKANAND Y. AWAD
Dist. PALGHAR

INDIA



AFFIANT

[Handwritten signature]

AFFIDAVIT

Solemnly affirmed before me.

by... *Gajanan Sahukar Jadhav*

Age... *37* Yrs OCC... *R.V.V.L*

R/o... *Boisar* Tq... *Palghar*

Who is identified before me by

Shri... *Adv. Vivekanand y. Awad*

To whom I know Personally.



1 APR 2021

[Handwritten signature]

Adv. V. Y. Awad
NOTARY
GOVT. OF INDIA

NOTED & REGISTERED
AT Serial No. <i>338</i>
Register No. <i>02</i> Dated <i>01/04/2021</i>
This Document Contains
Total... <i>08</i> Pages



MAHARASHTRA INDUSTRIAL DEVELOPMENT CORPORATION

(A Government of Maharashtra Undertaking)

EXHIBIT - 1

No. IFMS/DE/TD/TRP/A92442/of 2021
Office of the Deputy Engineer,
MIDC, Drainage Sub-Divn., Tarapur
Tel. No.:- 02525-271069
E'mail:- detarapurdr@midcindia.org
Date:- 19/03/2021

To,
M/s. Siriram Filtration & Engineering Co.
Plot No. F-4/4,
MIDC, Tarapur Indl. Area,
Boisar, Palghar.

Sub:- Tarapur Indl. Area...

Show cause notice for drainage connection to MIDC collection chamber.

Ref:- Your consent to operate (MIDC) No. UAN No. MPCB-CONSENT-00000033688, dt. 16/10/2017.

Dear Sir,

It has been brought to the notice of undersigned that, you have joined your drainage connection to MIDC's effluent collection chamber in front of your gate. However, after enquiry & receiving copy & your (MPCB) consent to operate it is found that your unit is ZLD category. It means you are not allowed to discharge any type of effluent.

Therefore, you are hereby called upon to show cause as "Why an action shall not be initiated against you for jointing drainage line to MIDC's effluent collection system". Your reply should be submitted with 3 days from receipt of this letter, otherwise action as per MIDC's rules will be initiated, please note.

Thanking you,

Yours faithfully,

Deputy Engineer,
MIDC, Drainage Sub-Divn.,
Tarapur

* In TEPS our record, Indl. shows green category.

- Copy f.w.c's to the Sub-Regional officer, MPCB, Tarapur-1, for information please.
- Copy f.w.c's to M/s. TEPS for information please.
- Copy to Guard file.

Bmore/Kadam Sir/English letter/ M/s. Steel Sanrat (India)

RECEIVED		
Date	21/3/2021/126	
Time	12-05	a/m/pm
Sign		
Tarapur Environment Protection Society - TEPS		

EXHIBIT - B

Incidences of leakages in MIDC disposal line between 2011-2019

#	Date/ Period	Year	Subject of Email/ Type of Breakdown	Extract of Email/ Reason of breakage	Reference (Email)
1	3/23/2021	2021	Breakdown on MIDC's Effluent Discharge line near village Paam	"breakdown happened on MIDC's Trated Effluent Discharge line near village Paam...it is requested to convey all industry members for holding the effluent till further notice, please"	1. Email_23032021
2	3/19/2021	2021	About break down of effluent pipe line near Pam village	"break down occurred of effluent pipe line near Pam village so in order to carry out work it will take near around 3 days so considering the emergency don't dispose the effluent in pipeline system"	2. Email_19032021
3	3/12/2021	2021	Urgent shutdown in LMN Zone to execute breakdown work on 400 mm dia HDPE pumping line of Sump No. 3	"breakdown occurred on 400 mm dia HDPE pumping line of Sump 3 to 25 MLD near Shivaji Nagar. MIDC has undertaken the work. Therefore it is requested to all plot holders in LMN zone for holding effluent till further notice from MIDC"	3. Email_12032021
4	1/10/2021	2021	Breakdown of MIDC's effluent pumping line near village Paam	"MIDC's effluent pumping line is broken down near village Paam. Repairs are being started. Water supply of Tarapur Industrial Area will be stopped.Effluent pumping from all sumps is stopped till repairs complete."	4. Email_10012021
5	1/7/2021	2021	about break down near plot no T-110 near ifca lab company	"effluent carrying line laid near plot no T-110(IN front of ifca lab company) has been break there for it is requested to you that the please consider its an emergency basis to stop the effluent discharge through individual company"	5. Email_07012021
6	12/18/2020	2020	Emergency breakdown on 1000 mm dia PSC effluent disposal pumping line of Tarapur Industrial Area	"unfortunately the effluent disposal line has been found to be leaking heavily. Therefore MIDC has stopped water supply of the Tarapur Industrial Area and also stopped effluent pumping from all sumps till further notice...request them to hold the effluent in their storage tanks only."	6. Email_18122020
7	12/16/2020	2020	About major breakdown of main effluent line near pam village	"breakage of main disposal effluent line near pam village hence we have stop the effluent pumping and also stop the water supply in order to carry out repair work of line this is kind of information please"	7. Email_16122020

8	8/6/2020	2020	Leakage on 800 mm dia. HDPE pumping line near 25 MLD.	Air valve leakage.	-
9	7/28/2020	2020	Leakage on 400 mm dia HDPE pumping line near Plot No. AM-2.	Air valve on line was stolen by Antisocial elements.	-
10	7/1/2020	2020	Leakage on underground gravity chamber near plot No. P-44.	Chamber damaged by JCB during land levelling.	-
11	5/24/2020	2020	1000 dia PSC pumping line leakage near T-141	Due to damage by JCB during gutter excavation.	-
12	3/19/2020	2020	400 mm dia HDPE line leakage Near T-51	Due to damage by JCB while excavation.	-
13	12/12/2019	2019	Proposed shutdown on 13th December 2019	<i>"that there is an emergency work to be attended on effluent disposal pipeline near Sump No 1 Therefore, it is requested you to please inform all industry members for not leaving effluent into MIDC's collection line"</i>	8. Email_12122019
14	12/2/2019	2019	Leakage on underground collection gravity line.	Due to damage caused during excavation by plot holder.	-
15	9/22/2019	2019	Request to curtail treated effluent from Sump no. 2	<i>"observed a leakage through wall of Break Pressure Tank on effluent disposal pumping line near Ipca Laboratories, T-139...we are not able to run two pumps at sump no. 2. As a result sump No. 2 is getting overflowed. It is a critical situation.... You are hereby requested to curtail the effluent quantity (50 %) from CETP"</i>	9. Email_22092019
16	4/12/2019	2019	Main effluent (Drainage) line leakage @ Navapur village.	<i>"MIDC Deputy Engineer & Navapur sarpanch inform us about leakage of disposal line near Navapur village & request us kindly inform your CETP members don't discharge their effluent to MIDC drainage line which goes to CETP till further information. That is holding the effluent at their end."</i>	10. Email_12042019
17	3/28/2019	2019	Emergency Break down on Effluent pumping main line going to Break Pressure Tank from sump No. 2 (T-zone)	<i>"the pumping main line going to Break Pressure Tank from sump No. 2 (T-zone) is damaged.....the pumping of Sump No. 2 has been stopped and it is requested to inform individual industries (All Zones) to hold the effluent till further notice."</i>	11. Email_28032019
18	3/23/2019	2019	Effluent pumping main line breakdown from Sump No.3	<i>"It is to inform you that, the pumping main line from sump No. 3, N-zone....It is required to stop the pumping from sump No.3 & It is also required to hold the effluent at individual company."</i>	12. Email_23032019

19	3/14/2019	2019	regarding maintenance work at navapur effluent pipe line	"MIDC deputy engineer & Navapur sarpanch inform us about leakage of disposal line near navapur village & request us kindly inform your CETP members don't discharge their effluent to MIDC drainage line which goes to CETP for next 24 hrs. that is hold the effluent at their end."	13. Email_14032019
20	10/1/2018	2018	Shutdown Notice for Proposed repair work at Sump no. 1	"An existing chamber of effluent collection line leading to sump No.1 is broken down and the effluent is flowing into natural water course. Do not leave any effluent into MIDC's effluent collection line from Thursday 4th Oct 2018, 8.00 AM to Friday 5th Oct 2018, 8.00 PM."	14. Email_01102018
21	2/9/2018	2018	Break down on 1000 mm dia PSC effluent disposal Line	"leakage of effluent on a 1000 mm dia PSC effluent disposal main is observed near Pam village. to take note of this and to communicate accordingly to member industries for not letting the effluent in the MIDC effluent collection system"	15. Email_09022018
22	8/2/2017	2017	Major leakage to effluent carrying pipe line of TEPS-CETP at Navapur village	"There is a major leakage to effluent carrying pipeline of CETP at Navapur village Meher Naka, near Police chowky. The said incidence as discussed with MIDC officer is happened due to damage of ball of air vent because of which air is lock & effluent being discharged"	16. Email_02082017
23	9/17/2015	2015	breakdown on effluent disposal pipeline at Navapur	"a major breakdown occurred on effluent disposal pipeline at Navapur on 15.09.2015 midnight...member industries not to let out the effluent in the MIDC's effluent collection line until further intimation."	17. Email_17092015
24	2/16/2012	2012	water supply shutdown	"A scheduled water supply shutdown will be arranged on 17th Feb 2012, Friday for attending breakdown on main pipeline..... You are requested to note and co-operate by making sufficient stock of water during above period."	18. Email_16022012