

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION No. 66/2024 (WZ)**

Bharat Mithalal Nagori

.... Applicant

Versus

MPCB & Ors.

.... Respondents

**ADDITIONAL AFFIDAVIT IN REPLY ON BEHALF OF
MAHARASHTRA POLLUTION CONTROL BOARD i.e.
RESPONDENT NO. 1 & 2.**

I, Kartikeya Langote, aged about 53 years, occupation – Service, the Sub-Regional Officer of the Maharashtra Pollution Control Board at Pune-I, having office address at 2nd Floor, Jog Centre, Wakdewadi, Pune – 411003, do hereby state on solemn affirmation as under –

- (1) I am filing this Additional Affidavit in Reply in compliance of the orders dated 16/04/2024 and 9/11/2024 passed by this Hon'ble National Green Tribunal, wherein this Hon'ble Tribunal directed the Applicant to provide documentary evidence and after receipt of the same, Respondent-Board has filed the Affidavit as to whether the same required any Consent to Establish and Consent to Operate to be obtained



by Respondent No. 5 and if yes than calculation of EDC to be levied on Respondent No. 5. Further the Hon'ble NGT directed that an opportunity of personal hearing shall also be given by the Respondent MPC Board to Respondent No. 5 before arriving at conclusion with respect to EDC.

- (2) I say and submit that in compliance of the order dated 16/4/2024 passed by this Hon'ble NGT, the Respondent No. 1, MPCB has given an opportunity of personal hearing to the Respondent No. 5 on 12/9/2024. During the course of hearing, Respondent No. 5-PP has informed that, temporary structure erected for badminton court, indoor games & other multipurpose use with only fabricated structure without any civil construction on temporary basis on 30/04/2019 with seating capacity 500 Person. The said activities are carried out as per the rule of UDCR. Meanwhile PMC has issued a letter to PP (Respondent No.5) to demolish the existing illegal permanent / temporary structures dated 22/07/2022. PMC has demolished said structure on 09/01/2024 as informed by project proponent.
- (3) I say & submit that CPCB had issued Mechanism/Guidelines for control of pollution & Enforcement of Environment norms at individual Establishments & the Area/Cluster of Restaurants/Hotels/Motels/Banquets etc., wherein, it has been stated that it is mandatory to obtain Consent to Establish



before commencement of the activities Consent to Operate before starting operation of the units (individual establishments and the area/cluster of restaurants/hotels/motels/ banquets etc. from the concerned SPCB.

- (4) I say and submit that in view of the above, the Respondent-Board has assessed Environment Damage Compensation against Respondent No.5- is as below:

Environment Damage Compensation to be levied on Industrial unit **Kodre Farm** Survey Nos. 27/1,27/2, and 31/1 of village Vedgaon Khurd, Pune

Methodology for Assessing Environmental Damage Compensation and Action Plan to Utilize the Fund" outlines a formula for imposing environmental compensation on industrial units for violation of directions issued by regulatory bodies listing the instances for taking cognizance of cases fit for violation and levy environmental compensation. The same has also been referred to by the Hon'ble NGT in its order. (para 14 to 16) dated 28/8/2019 in the matter of Original Application No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors. The instances considered for levying Environmental Damage Compensation (EDC) in the said report are:

Starting construction and operation of the project without CTE/CTO, and attempt is being made to assess the environmental compensation using the formula prescribed in the Application No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors., which may be taken as damages amount for contravening mandatory provisions of environmental laws. The formula takes into account of number of days violation took place, pollution index of unit, scale of operation, location factor based on population and an amount factor in Rupees.

Considering the period from day of violation observed – PP informed during personal hearing that, temporary structure erected for badminton court, indoor

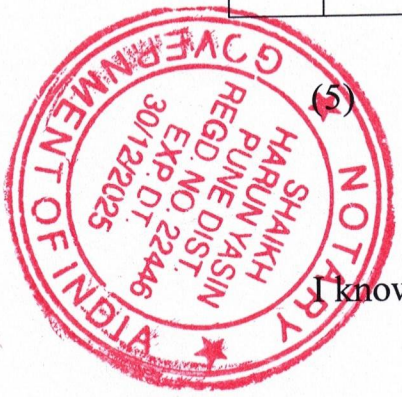
games & other multipurpose use with only fabricated structure without any civil construction on temporary basis on 30/04/2019 till date PMC has demolished said structure on 09/01/2024 as said by project proponent total number of days violation (N) took place comes out to be 1716 days. Environment Compensation calculate for above non-compliances are as follows:

$$EC = PI \times N \times R \times S \times LF$$

Therefore, the calculation of EDC to be levied is as under:

Sr. No.	Parameter	Description	Calculation
1	PI	Pollution Index of industrial sector (Consent categorisation). May be taken as 80, 50 and 30 for red, orange and green category of industries, Hence, PI = 50	50
2	N	Number of days of violation took place for which violation took place is the period between the day of violation observed and the day of compliance verified by CPCB/SPCB. PP informed during personal hearing dated 12/09/2024 that, temporary structure erected for badminton court, indoor games & other multipurpose use with only fabricated structure without any civil construction on temporary basis on 30/04/2019.	30/4/2019
		PMC has demolished the said structure on 09/01/2024.	09/01/2024
		No. of Days violation	1716

3	R	A factor in Rupees, which may be a minimum of 100 and maximum of 500. The aforesaid report also suggests to consider R as 250, as the Environmental Compensation in cases of violation. Hence, R =250.	250
4	S	Scale of Operation (LSI=1.5, MSI=1, SSI=0.5)	0.5
5	LF	Location Factor [Population in million, less than 1=1, 1 to less than 5=1.25, 5 to less 10=1.5, 10 and above=2	1.25
	EDC in Rupees	PI x N x R x S x LF	Rs. 1,34,06250/- (Rs. One Core Thirty-four Lakhs and six thousand two hundred fifty Only)



(5) Hence this Additional Affidavit.

Solemnly affirmed on this 3rd day of December 2024 at Pune.

I know the affiant

For and on behalf of Maharashtra Pollution Control Board i.e. Respondent No. 1 & 2.

[Signature]
31/12/24

ADVOCATE

(Kartikeya Langote)
Sub-Regional Officer,
MPCB, Pune-I

BEFORE ME
[Signature]
SHAIKH HARUN YASIN
ADVOCATE & NOTARY
GOVT. OF INDIA
48, Miitha Nagar, Kondhwa Kd., Pune-48

03 DEC 2024

