

Next Date:
02/02/2023

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BEFORE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 118 / 2022 (WZ)

BETWEEN

Sandeep Shankar Shete

.....

Applicant

Versus

M/s. Gayatri Cold Storage & Others

.....

Respondent

AFFIDAVIT BY RESPONDENT NO. 01
M/S. GAYATRI COLD STORAGE

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Filed by: **Pune, 02/Feb/2024**

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Mulund East, Mumbai - 400081, Maharashtra, India.
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Raghunath Mahabal रघुनाथ भालचंद्र महाबळ
BE (Mechanical), ME (Industrial Management) VJTI Mumbai
Chartered Engineer, FIE, Arbitrator-II, LLM **ADVOCATE**

CONTACT DETAILS OF PARTIES

BETWEEN

..... APPLICANTS

1. **Sandeep Shankar Shete**
R/at Kapil Capital Society,
Ambegaon Pathar, Dhanakavadi, Pune - 411006
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VERSUS

..... RESPONDENTS

1. **M/s. Gayatri Cold Storage,**
through its Partner
Shri. Vijay Prakash Dhere,
Sr. No. 105/3, Dhere Bungalow, Manjari Bk,
Tal. Haveli, Dist. Pune
E-mail : vijaydhere@live.in
Phone : 9011784500
020-26995400
2. **State of Maharashtra**
Through Principal Secretary,
Environment and Climate Change Department
Room No. 217, 2nd floor, Madam Cama Road,
Mantralaya, Mumbai - 400032
E-mail : mah-env@nic.in
psec.env@maharashtra.gov.in
Phone : 022-22819517
3. **Maharashtra Pollution Control Board,**
through its **Regional Officer - Pune,**
Jog Center, 3rd floor, Mumbai Pune Road,
Wakdewadi, Pune - 411003
E-mail : ropune@mpcb.gov.in
Phone : 020-25811029
4. **Kolhapur Zilla Sahakari Dudh Utpadak Sangh Ltd., Kolhapur,**
through its Managing Director
B-1, MIDC, Gokul Shirgaon, Tal. Karveer, Dist. Kolhapur - 416234
E-mail : ho@gokulmilk.coop
Phone : 91-2312672311

ABBREVIATIONS USED

Short	Full-form
CGWA	Central Ground Water Authority
CTE	'Consent to Establish'
CTO	'Consent to Operate'
GCL	Gayatri Cold Storage (Respondent No. 1)
GLC	Ground Level Concentration
MPCB	Maharashtra Pollution Control Board
NGT	National Green Tribunal
OA	Original Application

DIARY OF EVENTS

Sr.	Date (yy/mm/dd)	Activity / Particulars
1.	2019/11/20	MPCB Consent to Operate
2.	2021/09/18	MPCB Letter for Refusal of Consent
3.	2022/11/25	MPCB Visit Report
4.	2022/12/23	MPCB Visit Report
5.	2023/01/04	Government of India, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation: Central Ground Water Authority (CGWA) Application for Issue of NOC to Abstract Ground Water (NOCAP)
6.	2022/11/18	Application for Renewal of 'Consent to Operate'
7.	2013/01/13	MPCB Consent to Operate (Renewal) valid 30/04/2027

AFFIDAVIT BY RESPONDENT NO. 1**MOST RESPECTFULLY SUBMITTED:**

1. I, Vijay Dhere, aged 56 years, am working as Partner. I have knowledge and authority to file this affidavit for and on behalf of the answering industry **Respondent No. 1 M/s. Gayatri Cold Storage** (hereafter referred to as **GCL**).

2. I say and submit that I have perused the original application and allegations in it. I hereby categorically deny all allegations against me. Nothing shall be construed as admitted because it has not been responded or denied specifically. All allegations are based on incorrect information, made with *mala fide* intentions, false and fabricated.

3. I say and submit that the address of the applicant is incorrect. He is not residing at that address. This address belongs to our business rival and competitor who was bidding a tender against us for this work. As such the applicant has suppressed this vital relevant fact. Applicant has come with *mala fide* ulterior motive and his motive and hands are not clean. On this ground alone, this OA needs to be dismissed and heavy cost should be imposed for misusing this Hon'ble Tribunal as tool for winning the bid.

4. I have enclosed the particulars of the address and documents to show the real owner of it and his involvement in this application for snatching the

commercial tender.

Be that so as it may be, I have point-wise responded to all the averments and the allegations, on merit hereinbelow.

5. I say and submit that GCL is ONLY storing the milk and packaging it. It is not a milk processing unit. The capacity of storage and packing is 4,00,000 liters/day.

6. I say and submit that GCL has only industrial effluent arising from floor washing and cold storage/packing unit washings. GCL has full-fledged ETP with installed capacity of treating 50 m³/day. The ETP is consisting of primary + secondary + tertiary treatment. The same is mentioned in Schedule-I of the 'Consent to Operate' Page 3/8. However, the actual effluent generated is only 7 m³/day. As such there is no overloading of ETP. In fact, due to weak effluent and low BOD load, we need to recirculate the sludge for active bio-mass from settling tank. The sewage generated is only 4 m³/day. This is treated in anaerobic manner in septic tank followed by soak pit.

7. I say and submit that GCL uses briquettes as fuel for boiler. GCL has installed cyclone separator and has provided for the sampling point for monitoring.

**POINTWISE REPLY TO THE
ALLEGATIONS OF APPLICANT**

8. Allegation Page No.11, Point No. A

Without obtaining consent and necessary permission from MPCB there is violation of Environment Act.

■ REPLY: **MPCB has granted 'Consent to Operate' dated 13/01/2023, after site visit on 04/01/2023.**

The ETP is fully cleaned, refurbished, repaired, repainted to avoid corrosion and is operative to its full capacity.

All the deficiencies were corrected which were pointed out in the interim directions dated 28/12/2022.

9. Allegation Page No.12, Point No. B

Environmental damage caused by illegal dumping of untreated toxic effluents from GCL.

■ REPLY: During the period of maintenance we were using the treated waste water in our green house and fruits garden.

The effluent from milk storage and packaging unit is not at all toxic. The milk enters effluent only when vessels are washed at the end of the day. This is evident from the low BOD:COD ratio. The effluent is fully biodegradable, by aerobic treatment. Even by anaerobic treatment, 60% BOD reduction is

achieved, without use of electrical power. As the effluent is non-toxic it can be safely used for floor washing, gardening, plantation or irrigating the farms.

10. Allegation Page No.12, Point No. C

No installation of any Air Pollution Control System for prevention and control air pollution which causes Air Pollution to the surrounding area.

■ REPLY: We have boiler of steam generation capacity 300 kg/hr. The boiler unit is not operational 24 hr. The flue gases are discharged through 11m high chimney. It diffuses and discharges the emissions with impact on ground level concentrations (GLC) within sustainable and acceptable limits. The net resultant GLC also is well within the National Ambient Air Quality Standards 18/11/2009 (NAAQS). Applicants has not given any data to show that there is pollution or the air pollution control equipment are non-operational.

We have installed cyclone separators. Since the particles are $>100\mu$ (micron) in size, they get easily separated in this cyclone system itself.

11. Allegation Page No.12, Point No. E

Casual and lethargic approach towards the duty which has been embedded upon them to safeguard the interest of the environment.

■ REPLY: No damage was caused to environment. There is no air pollution OR noise pollution from such

units. The effluent generated is 100% biodegradable, easily treatable even in conventional ETP.

There is *ab-initio* no toxicity in the effluent generated in the unit. Start to end, the effluent remains non-toxic during and after the treatment. Industrial effluent is treated in ETP and can be safely used for any secondary use.

The sewage is treated in septic tank by anaerobic method and the decanted overflow is discharged in soak pit.

Both the above arrangements are approved by MPCB and stipulated in the 'Consent to Operate'.

12. Allegation Page No.12, Point No. F

By discharging untreated industrial toxic effluents outside the premises for more than four years, ETP does not operated scientifically.

■ REPLY: The ETP was always functional and operative. The treated effluent was used within the premises after treatment for secondary purposes, floor washing, vehicle washing, garden area and farms.

The applicant has not given any substantive information or data regarding the violation done OR the damage to environment. There is no complaint from any of the nearby residents OR the industries about the pollution being caused from the GCL. The

allegations are bald, unsubstantiated and without any adverse data.

The unit is milk cold storage and packaging unit. GCL does not process the milk. As can be seen from the MPCB Visit Report also, the effluent is generated from floor washing and general washing operation etc. As such the effluent is weak with low BOD levels anyways. The GCL has full-fledged ETP based on aerobic conventional treatment with all operative units. This process is fail-proof and gives treatment results at all the time.

As can be seen, due to weak effluent and low BOD, even when the aeration is ongoing, the bio-mass volume is low. As such ETP has to re-circulate the sludge from the treated effluent, from the secondary settling unit.

**REASONS FOR REFUSAL OF THE
CONSENT IN SCN 18/09/2021
(OA PAGE NO.25, AX.B)**

13. All the reasons in SCN are not related to environment. Those are not related to functioning of the ETP or the allegations made in the OA. The reasons in SCN are:

- 1) *You have not submitted undertaking declaration of land cost.*
- 2) *You have not submitted NOC from CGW Authority for extraction of ground water.*
- 3) *You have not submitted rational water budget in details.*
- 4) *You have not submitted SSI Registration*
- 5) *You have not submitted BG of Rs.25,000/- as per pervious consent conditions.*

14. As such, none of the reasons in SCN relate to non-performance of ETP, damage to environment or pollution.

15. The GCL applied for the 'Consent to Operate' and paid the consent **and penal fees for the past period** as per MPCB Circular dated 12/07/2021.

16. I say and submit that the OA Page Nos. 27 to 29, Ax. C gives the photograph of the ETP. It can be seen that it is operational and it contains the effluent under treatment.

17. The actual effluent generated is hardly 7 m³/day whereas the capacity of the ETP is to treat the effluent up to 50 m³/day. As such it is always running under capacity (hydraulic load) and delivering more than desired performance.

18. The treated effluent is safe to use anywhere as stipulated in the consent. The BOD <30 mg/L is safe even for toilet flushing and any secondary use where there is no human consumption and contact OR contact with food/milk.

SCN DATED 18/09/2021
(OA PAGE NO.39, AX.E)

19. MPCB did issue SCN as above. After that MPCB Officials visited the GCL on 23/12/2022.

1) *You are not operating ETP scientifically with all units and ETP parts have found in corroded manner.*

- 2) *You are discharging untreated effluent outside the GCL premise.*
- 3) *You have not provided air pollution control system to the Boiler and not provided monitoring facility as per CPCB guidelines.*
- 4) *You have not provided metering system to the bore well.*

20. I say and submit that GCL took the observations in the positive spirit. It was shown to them that the ETP is in operation. Since the hydraulic load is too less as against the capacity, it looks non-functional. Mild-Steel components do get rusted, and hence are painted, coated with epoxy and parts are replaced every 3-4 years.

21. GCL took corrective action and complied with all the interim directions issued by the MPCB.

- i. ETP was revamped and fully operational. It is operating as per consent conditions.
- ii. Dust Collector also is provided and operational.
- iii. Sampling point is also provided.
- iv. Magnetic water flow meter is also provided to the borewell to measure the water drawn from borewell.

22. I say and submit that MPCB officials again visited GCL on 04/01/2023 to check the compliance with their interim directions issued. The entire compliance done by GCL was shown as above. Only thereafter, the MPCB issued the renewed 'Consent to Operate' dated 13/01/2023 which is valid up to 30/04/2027.

23. MPCB also imposed and collected the penalty of Rs.52,397/- as per Circular 12/07/2022, for the past lapsed validity period of the consent. Industry has not challenged that and paid this amount.

24. In light of the above, Hon'ble Tribunal may dismiss the OA, as nothing survives in this application. The compliance as on date is fully done by the GCL. MPCB has also approved it by granting the formal 'Consent to Operate'. GCL is always open to periodic inspections and checking by MPCB and any lawful action as warranted by law.

25. I say and submit that Hon'ble Tribunal may note that applicant has given false address on affidavit AND has suppressed the relevant material fact that applicant has vested commercial interest in the tender for milk storage and packaging. The OA has originated mainly due to this commercial rivalry and not due to any 'substantial question related to environment' as defined in 2(m).

Date: 02-02-2023
Place: Pune

×
Vijay Dhere
Respondent No. 1
Gayatri Cold Storage

VERIFICATION AND AFFIDAVIT

I, Vijay Dhere, aged 56 years hereby state on solemn affirmation and oath that I have verified all the contents in all paras of the above affidavit. To the best of my knowledge, they are true and correct and that I have not suppressed any relevant material facts.

Date: 02-02-2023
Place: Pune

×
Vijay Dhere
Respondent No. 1
Gayatri Cold Storage

Before me. Verified by:
Advocate Raghunath Mahabal

Effluent Treatment Plant (ETP)



Gayatri Cold Storage: Site Photographs



ETP Collection Tank



Complete cleaning, repair & maintenance



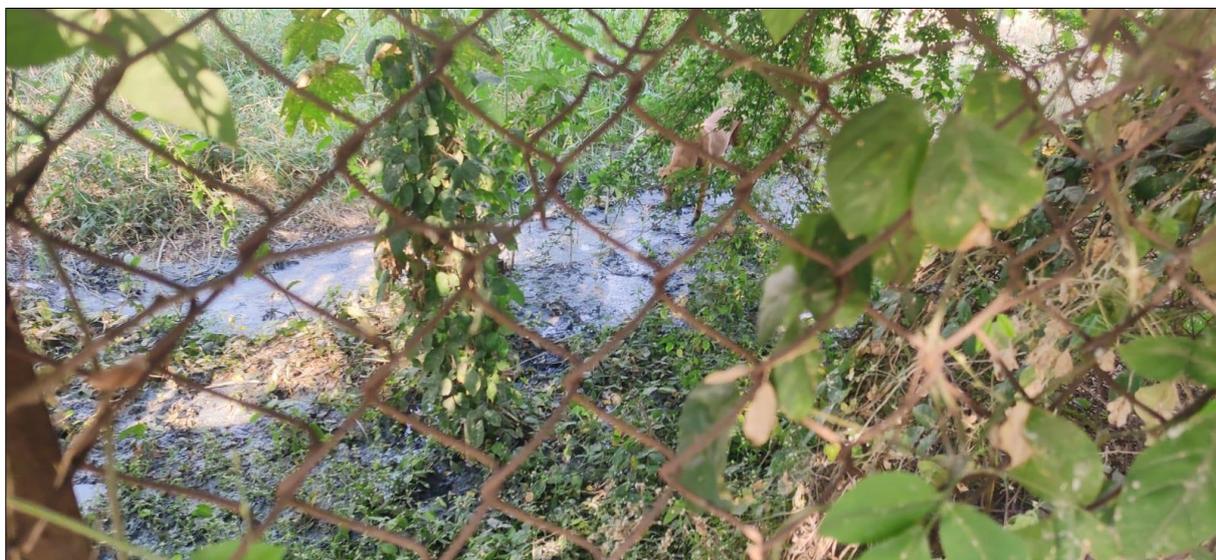
Repair & Maintenance done



Settling Tank



Tertiary Treatment Filtration



**Discharging Untreated Industrial Toxic
Effluents Outside Premises
THIS DOES NOT BELONG TO COLD STORAGE**



CGWA Water Meter



Stack Sampling Port



Cyclone Dust Collector



Stack Sampling Port



CGWA Water Meter



Cyclone Separator Dust Collector



Application for Issue of NOC to Abstract Ground Water (NOCAP)

Welcome : GAYATRICOLDSTORAGE

Previous Login Date Time: 04/01/2023 14:35:33 PM , IP Address: 59.88.28.241

[Logout](#)

- Applicant Home
- Apply
- Feedback
- Change Password
- Profile
- Submitted Grievance
- Payment

- Location Details
- Groundwater Abstraction Structure
- Attachment
- Ready To Submit
- Final Submit

(*)- Mandatory Fields, (\$) - Upload Attachments in **Attachment** Section

1. Location details

Water Quality Type :	Fresh Water	Application Type	Category / Type of Dairy
		Application: *	
(i) Name of Industry:	Gayatri Cold Storage		
(ii) Location Details of the Industrial Unit- (Attach Approved Site Plan with Location Map) *			
Address Line 1: *	105/3	Address Line 2:	Dhere Bunglow
Address Line 3:	Next to serum Institute	State: *	MAHARASHTRA
District: *	PUNE	Sub-District: *	HAVELI
Village / Town: *	Village	Village: *	Mandvi Bk.
Town: *			
Latitude *	18.51	Longitude *	73.96
Whether industry is MSME: *(\$)	Yes	MSME Type	Small
		<input type="radio"/> New Industry <input type="radio"/> Existing Industry	
Whether the project falls in Wetland Area: *	No	Whether Ground	
		Water Utilization for: *	<input checked="" type="radio"/> Expansion Program of Existing Industry <input type="radio"/> Industry
Whether NOC Obtained for Existing Usage of Groundwater :	Yes		

2. Communication Address

3. Water Requirement Details

Not Allowed - Please contact to CGWA for Archival Entry (NOC already obtained). After entry apply for Renewal of NOC.

MAHARASHTRA POLLUTION CONTROL BOARD

Tel: 24010437/24020781/24014701		Kalpataru Point, 2nd - 4th Floor
Fax: 24024068 / 24023515		Opp. Cine Planet Cinema,
Website: http://mpcb.gov.in		Near Sion Circle, Sion (E)
E-mail: ast@mpcb.gov.in		Mumbai-400 022.

No. BO/MPCB/AS(T)/Circular/B- 220712FTS0047

Date: 12/07/2022

CIRCULAR

Sub: Provision of penal fess for occupiers violating combine consent regime prescribed under Air/Water Act – reg.

Ref: Minutes of 178th Board Meeting held on 24/02/2022.

...

It is mandatory on the part of industries/entrepreneurs to obtain Consent to Establish and Operate under section 25/26 of the Water (Prevention & Control of Pollution Act) 1974, under section 21 of Air (Prevention & Control of Pollution) Act 1981 and Authorization under Hazardous & Other Waste (Management & Transboundary Movement) Rule 2016. However, it has been noticed that, often industries were found to be violating the aforesaid provisions and the violations noticed are as below:

1. To take effective steps towards establishment of project/unit without obtaining Consent to Establish from the Board
2. To take effective steps without revalidating Consent to Establish from the Board.
3. To start Commercial production/to hand over occupancy without obtaining Consent to Operate from the Board
4. To carry out expansion activity and applying directly for Consent to Operate without obtaining Consent to Establish of the Board.
5. To operate the activity without valid consent to operate of the Board and applying after lapse of validity period.
6. To store and disposal of Hazardous Waste not consistent with provisions of rules

The MPC Board has published Enforcement Policy for issuance of directions on account of degree of violation by imposing/forfeiting proportionate Bank Guarantee. The matter of such violations was discussed during Consent Appraisal Committee/Consent Committee and was decided to formulate the deterrent policy towards above mentioned violations and such other violations. Hence, it is important to discourage the defaulting industries by adopting "Polluter Pays" principal by imposing appropriate cost for violation of provisions of Environment enactments.

The MPC Board in its 178th Board meeting held on 24/02/2022 vide item No. 12 has considered to impose appropriate penal fees towards violation of Environmental enactments, the penal fees shall be imposed as below:

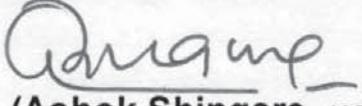
..2

Sr. No.	Violation	Cost of Violation
01	Taking effective steps towards establishment of project/unit prior to obtain Consent to Establish from the Board	Red Category: 5 times of one term consent fee X no. of years of violation*
02	Taking effective steps without revalidating Consent to Establish of the Board.	
03	Industry: Starting Commercial production prior to obtain Consent to Operate of the Board.	Orange Category: 3 times of one term consent fee X no. of years of violation*
	Infrastructure Project: Handing over possession prior to obtaining Consent to Operate of the Board and Occupancy certificate from Local Body.	
04	Operating the industry/activity without valid consent to operate of the Board and applying after lapse of validity period.	Green Category: 1 time of one term consent fee X no. of years of violation*

* Calculations of number of years shall be calculated on the basis of number of days of non-compliance.

The penal fees amount to be paid by PP through online e-payment gateway.

All the Officers of the Board should implement this circular scrupulously without fail.


(Ashok Shingare, IAS)
Member Secretary

Copy submitted to: The Hon'ble Chairman, MPC Board Mumbai- for favour of information

Copy to:

1. The Assistant Secretary (Tech)/Joint Director (APC)/Joint Director (WPC)/Principal Scientific Officer/Regional Officer (HQ) MPC Board Mumbai
2. Law Officer/Statical Officer, MPC Board Mumbai

Copy to:

1. All Regional Officer, MPC Board
2. All Sub-Regional Officer, MPC Board
3. EIC- He is directed to place the circular on Board's website.