

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, AT PUNE.**

ORIGINAL APPLICATION NO. 187 OF 2023(WZ)

IN THE MATTER OF :

Mr. Vijay Vilas Dighe

...Applicant

VERSUS

Yashraj Marriage Hall and Multipurpose Hall

Through its Owners & ors.

...Respondents

AFFIDAVIT ON BEHALF OF THE RESPONDENT NO.1

| Sr. No. | Particulars | Page No. |
|----------------|--|-----------------|
| 1. | Affidavit on behalf of the Respondent no.1 | 375-377 |
| 2. | Annexure- Copy of Show cause notice dated 21/05/2024 issued by the MPCB to Respondent no. 1 | 378-379 |
| 3. | Annexure – Copy of acknowledgement of the reply dated 19/07/2024 of Respondent no. 1 to show cause notice of MPCB dated 21/05/2024 | 380-384 |

ADVOCATE FOR THE RESPONDENT

Aarti D. Bhonsle

C-68, Shivajinagar Court, Pune- 411005

Mobile No: +91 9922990869

E-mail: aartidbhonsle@gmail.com



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**AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 1**

I Mr. Digambar Hanumant Kirdat, Age – 66 years, Occ – Business, for the Respondent no.1, residing at – 269B/7B, near KSD Shanbaug School, Daulatnagar Karanje, Satara do hereby state on solemn affirmation that -

1. That in accordance with the order of this Hon'ble Tribunal dated 12/04/2024, the MPCB has sent Show Cause Notice for Imposition of Environment Compensation on 21/05/2024.
2. That in accordance therewith, Respondent no.1 has approached MPCB and filed his reply on 19/07/2024. **(Hereto marked and annexed as Exh.1 is a copy of Reply filed by Respondent no.1 to the MPCB)**
3. However, the Respondent did not receive any copy of said show cause notice dated 21/05/2024 from MPCB. Therefore, the Respondent made



reply to said show cause notice dated 21/05/2024 from the documents filed by MPCB in this matter. Hence there was delay in filing of the said reply

Whatever stated above is true and correct to the best of my knowledge and belief, hereby solemnly affirmed at Satara on 10th day of September 2024

Pune

Chandrat

Date : 10/09/2024

Affiant

VERIFICATION

Verified at Satara, on 10/09/2024, that the contents of the above Affidavit are true and correct to the best of my knowledge and belief and no material facts has been concealed therefrom.

Place - Satara

Date : 10/09/2024

Chandrat

Affiant



Solemnly affirmed before me by
Shri./Smt. Digambar Hanumantrao
R/o Dautapagar Karanje, Satara do hereby state on solemn affirmation that
Who identified before me by
Shri./Smt. Adv. Abhi Ghoshale Pune.
or to ~~BEFORE ME~~ personally.

NOTED & REGISTERED
at Serial No. 3013/2024
Date 10 SEP 2024

ADV. ANKUSH S. JADHAV
NOTARY GOVT. OF INDIA
P. NO. 15427 AREA SATARA DIST.
MOB. NO. 9960348875/9422479107

**MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE - PUNE**

Phone No. 020-25811694
Fax No. 020-25811701
e-mail : ropune@mpcb.gov.in
visit us : www.mpcb.gov.in



"Your Service is our Duty"

Jog Centre, 3rd Floor,
Wakdewadi,
Old-Pune Mumbai Road,
Pune- 411003

MPCB/ROP/SCN/240521-FTS-0278

Date: 21/05/2024

To,
**M/s. Hotel Yeshraj,
Survey No. 432/1B, Daulatnagar, Karnaje Tarf Satara
Tal & Dist Satara**

Sub : Show Cause Notice for Imposition of Environment Compensation.

- Ref :** (1) Consent to Operate granted by the Board vide no. Format1.0/RO/UAN No.0000198869/CO/2404000751, Dtd. 08/04/2024
(2) Hon'ble NGT Order Dtd.12/04/2024 in Original Application No. 187/2023 (WZ).
(3) Office Note submitted by SRO Satara vide MPCB-ON-3276, Dtd. 15/05/2024

WHEREAS, the Maharashtra Pollution Control Board has granted Consent to Operate u/s 26 of the Water (Prevention and Control of Pollution) Act, 1974 and u/s 21 of the Air (Prevention and Control of Pollution) Act, 1981 & Authorization under Rule 6 of the Hazardous and Other Wastes (Management and Trans-boundary Movement) Rules, 2016, subject to certain terms and conditions.

AND WHEREAS, it is obligatory on your part to provide adequate pollution control devices and comply with the consent conditions so as to achieve the standards prescribed by the Board in its consent.

AND WHEREAS, the Hon'ble NGT issued order vide dated 12/04/2024 in O.A. No. 187/2023(WZ) and asked to the Maharashtra Pollution Control Board why an environment damages compensation EDC has not been levied.

AND WHEREAS, Sub Regional Officer, Satara submitted office note with the calculation of Environmental Compensation (EC) in Rupees 11,25,000/- (Eleven Lakh Twenty Five Thousand Only) as per the methodology recommended in "Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" which has also been referred by the Hon'ble National Green Tribunal 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., may be used to calculate Environmental Compensation on the unit to loss caused to the environment."

The Calculations as below:

Environmental Compensation (EC) in Rupees= PI x N x R x S x LF

Where,

The unit is under Orange Category as per CPCB guidelines for Marriage Hall. (Annexure-IV).

PI = Pollution index of industrial sectors

The unit falls under Orange category, hence PI = 50

N = Number of days violation took place N = 180 days.

(From 11/10/2023 (OA Filed Date) to 08/04/2024 (Consent Granted Date) refer Hon'ble NGT order dtd. 12/04/2024.)

2...

'R' "is a factor in Rupees, which may be a minimum of 100 and maximum of 500. The aforesaid report also recommended considering R as 250 as the Environmental Compensation in cases of violation. Hence, R = 250"

S = Factor for the scale of operation, the said unit being small scale unit, hence S=0.5

LF = Location factor

Since the population of Nearby Wai Municipal Council is less than one Million, LF = 1.0

Therefore, Environmental Compensation (EC) in Rupees = $50 \times 180 \times 250 \times 0.5 \times 1.0$
= Rs. 11,25,000/- (Rs. Eleven lakhs Twenty-Five thousand Only).

NOW THEREFORE, in view of the above non-compliance, you are hereby directed to show cause as to why shall be not imposed the aforesaid Environmental Compensation (EC) in Rupees 11,25,000/- (Rs. Eleven lakhs Twenty-Five thousand Only) towards damages caused to the Environment due to your activity.

You are hereby given an opportunity to respond within 14 days from issuance of this notice, failing which, MPCB will initiate legal action against your unit without giving any further notice in accordance with the provisions of the Water (prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, which please note.

For and on behalf of
Maharashtra Pollution Control Board



(Ravindra Andhale)
Regional Officer,
M. P. C. Board Pune

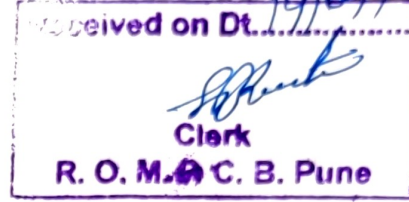
Copy Submitted for information to :-

1. Joint Director (APC), M.P.C. Board, Mumbai.

Copy to- The Sub-Regional Officer, M.P.C. Board, Satara :- For follow up action please.

To,
Maharashtra Pollution Control Board,
Jog Center, 3rd Floor,
Mumbai Pune Road, Wakdewadi,
Pune – 411003.

Date: 19/07/2024



SUB – Regarding the request to reduce the fine imposed under the order dated 21/05/2024.

Dear Sir,

I, Digambar HanmatKirdat, am running the business of Hotel Yashraj located at Survey No. 432/1B, Daulatnagar, Karanje Peth, Satara Tal. & Dist. Satara – 415001, since last 8 years. I have received an intimation of your intention to impose a fine, from the affidavit filed by the MPCB before the Hon'ble NGT in the matter bearing No. OA 187/2023 (WZ) Vijay Vilas Dighe Vs. Yashraj Marriage Hall and Multipurpose Hall through its Owners etc.

I have been operating Hotel Yashraj since 2016, adhering to all rules and regulations, including permissions under the Maharashtra Shop Act, Certificate of Eating House, Maharashtra Pollution Control Board, and the Collector of Satara District.

The area where my business is located was recently established as a silent zone by the Maharashtra Pollution Control Board (MPCB) in their notification dated 01/01/2024, due to the presence of a school in the vicinity, namely, KSD Shanbaugh School.

Initially, there was no need to procure a Consent to Operate and Consent to Establish under Section 26 of the Water (Prevention and Control of Pollution) Act, 1981, and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, and Authorization under Rule 6 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016 as per the circular of Maharashtra Pollution Control Board dated 24/11/2016. My Hotel Yashraj falls in Group B, which does not require obtaining consent under the Maharashtra Pollution Control Board's consent management regime.

The Hon'ble NGT Order dated 19/09/2019 in the matter of OA No. 400/2017 titled Westend Green Farms Society Vs Union of India &Ors. Guidelines prepared by the Central Pollution Control Board in compliance with the order of the Hon'ble NGT covered operations for control of Pollution and Enforcement of environmental norms at individual establishments and areas/clusters of restaurants, hotels, motels, banquets, etc. Subsequently, on 02/02/2021, the Hon'ble NGT directed all states/UTs to implement the Guidelines of the Central Pollution Control Board. In compliance, Maharashtra Pollution Control Board published a circular on 04/03/2021, containing guidelines for control of pollution in restaurants, hotels, motels, banquets, etc., along with the consent management system.

Due to the COVID-19 pandemic, my business was shut down for two years. As soon as the said circular was brought to my knowledge, I took immediate action by applying to the MPCB on 14/02/2024, to receive the consent to operate and establish my business. After my prompt action, I received the requisite consent on 08/04/2024,

The period of non-compliance as calculated in the letter dated 21/05/2024, is calculated from 11/10/2023 (OA filed date). However, it was only on 01/01/2024 when the Joint Committee visited the said site along with the District Collector Satara, Sub-regional officer MPCB Satara, and Chief Officer Municipal Council Satara wherein as per the report dated 04/01/2024, the said Joint Committee admitted in its report that as the said "marriage hall" falls in Group B as per MPCB circular dated 24/11/2016, do not fall under the purview of consent management regime of the board. However, it is only vide the affidavit dated 25/01/2024 that Mr. Amol Satpute for the MPCB submits an affidavit that CPCB had issued guidelines/mechanisms for control of pollution and enforcement of environmental norms at individual establishments and the area/cluster of restaurants/hotels/motels/banquets dated September 2020 wherein marriage halls are also covered and it is mandatory that all marriage halls to obtain consent to establish and consent to operate from the board.

Thus, it was only vide the affidavit dated 25/01/2024, that the said non-compliance was brought to my knowledge. Therefore, the number of days for which the violation took place is the period between the day the violation was observed and the day of compliance verified by CPCB/SPCB.

Thus, as the said non-compliance was observed only on 25/01/2024 and immediately thereafter on 14/02/2024 I have submitted the application for consent to operate and consent to establish the business, the period of non-compliance ceases on 14/02/2024. Therefore, the calculation of N being a number of days, ought to be only 20 days.

The fine imposed is unwarranted and unnecessary given my innocent non-compliance.

The environment compensation calculated as per the Hon'ble NGT has passed an order in the matter of OA No. 593/2017 titled Paryavaran Suraksha Samiti & Anr Vs. Union of India & Ors dated 28/08/2019 is as follows:

Environment Compensation (EC) = PI x N x R x S x LF

- PI (Pollution Index of Industrial Sector): My marriage hall falls under the Orange Category, hence PI = 50.
- N (Number of days violation took place): 20 days (from 25/01/2024 to 14/02/2024).
- R (Factor in rupees, minimum of 100 and maximum of 500): As my marriage hall is within the orange category and does not operate regularly, R = 250.
- S (Factor for the scale of operation): My marriage hall is a small-scale unit, hence S = 0.5.
- LF (Location Factor): Since the population of the nearby Wai Municipal Council is less than one million, LF = 1.0.


Therefore, Environment Compensation (EC) = $50 \times 20 \times 250 \times 0.5 \times 1.0 = 1,25,000/-$

Additionally, my business has limited profitability, and I have significant financial responsibilities, including my sons' education for which I have taken an educational loan. Copies of my ITR returns and the educational loan taken may be produced for your perusal if required.

In light of the above circumstances and reasons, I kindly request the Maharashtra Pollution Control Board to reconsider its calculation accurately as the EDC payable is Rs. 1,25,000/-

That I shall also be available for a personal hearing if called upon to do so.

Thanking You,


Digambar Hanmant Kirdat
(Applicant)