

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, AT PUNE

ORIGINAL APPLICATION NO. 78 OF 2023

IN THE MATTER OF:

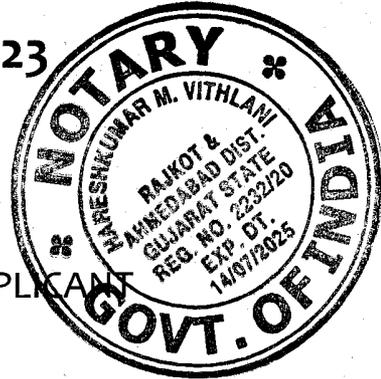
HASMUKHBHAI BAHECHARBHAI PARMAR

... APPLICANT

VERSUS

ALKEM LABORATORIES & ANR.

... RESPONDENTS



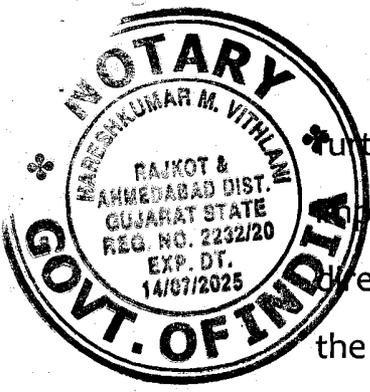
AFFIDAVIT OF BEHALF OF RESPONDENT No. 2 -

GUJARAT POLLUTION CONTROL BOARD

I, Arunkumar Gulabbhai Patel, adult, having my office at Paryavaran Bhavan, Section 10-A, Gandhinagar, Gujarat do hereby solemnly affirm and state on oath as under:

1. I am presently working as Environment Engineer with the Gujarat Pollution Control Board – respondent no. 2 in the present application. I have read copy of the application filed by the applicant and the orders passed by this Hon'ble Tribunal on the appeal. I am conversant with the facts of the case having perused the record pertaining to the case available in my office. I am authorised to make the present affidavit on behalf of the State Pollution Control Board and am otherwise competent to swear the present affidavit.
2. I say that the applicant has filed the present application seeking levy of "penalty" on the 1st respondent – Alkem Laboratories Limited, for having caused environmental pollution and has sought

Arunkumar



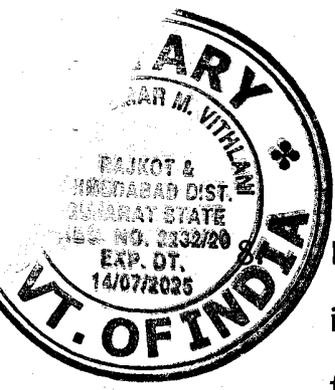
Further direction for utilisation of the amount of penalty “for Improving the Natural Environment” around the area as also a direction to the Pollution Control Board “to mention” the name of the applicant in the incident report prepared by it.

3. An incident of fire occurred in the production plant of the 1st respondent on 10.12.2022 who is *inter alia* engaged in the business of manufacturing pharmaceutical chemicals.
4. The fire is alleged to have started at around 1130 hours on 10.12.2022. Intimation about incident of fire was given by the applicant to the Board around 1153 hours. The Board independently also received information about the incident of fire in the factory.
5. One person Mr. Brijesh Vishpute (Senior Executive – EHS) working in the industrial unit suffered injury while attempting to break emergency glass for the purpose of carrying out rescue activity. He was treated for the minor injury sustained by him at Jayaben Modi Hospital. He was given primary medical treatment and issued a fitness certificate on 12.12.2022.

IMMEDIATE ACTION FOLLOWING ACCIDENT

6. Officials from the Fire Department, Directorate of Industrial Safety and Health, Pollution Control Board and other statutory authorities rushed to the site of accident. All authorities conjointly, together with the management of the 1st respondent, took necessary steps for dousing the fire and controlling the damage caused by the accidental fire.
7. The fire started at around 11:30am and the same was extinguished by around 1215 hours. The preliminary report indicated that fire had occurred when ML was being transferred from the tank to the drum for the purpose of production of Aripiprazole.

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Instructions were given by the officials of the statutory authorities, including the Pollution Control Board, for safe and environment friendly disposal of the water used for dousing the fire and burnt waste generated during fire. Samples were collected of the contaminated water / waste water generated from fire fighting activity. Ambient air quality was constantly monitored by the officials of the Pollution Control Board.

9. The exact cause of fire could not be ascertained immediately. As regards extent of damage, it was noticed that fire had engulfed only a particular section of the industrial plant i.e Plant-4, and that other areas of the plant were not affected in any manner by the incident of fire.
10. Pending inquiry and investigation, a direction was issued by the Inspector under the Factories Act, 1948 prohibiting further use of the entire Production Area 4, which was involved in the accident of fire. Since the other areas were visibly found to have not been touched, much less affected, by the fire no need was felt for shutting down operations in the other areas of the industrial plant. Similarly, a direction for closing the operations in the entire Production Area 4 was issued by the Pollution Control Board on 6.01.2023. A copy of direction for closure of the unit issued by Pollution Control Board is annexed herewith and marked as **Annexure R-1.**

ACTION BY POLLUTION CONTROL BOARD

11. Pollution Control Board is concerned with impact of discharge of pollutions, even if such discharge is unintended and caused due to an accident, on the environment, including damage that may have been caused to the environment (air, water and soil).

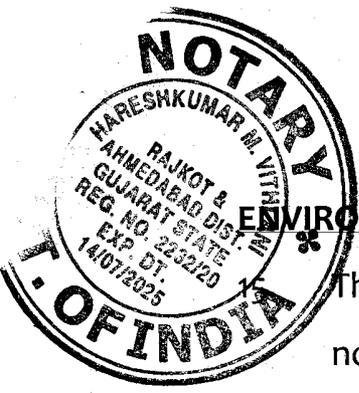
Chirag



In the present case, the Pollution Control Board had issued instructions to the factory for disposal of the contaminated water / waste water generated from fire-fighting activity and disposal of burnt waste within the premises. Same was complied by industry. Approximately 8.5 kilolitre of fire water from in house fire hydrant system and 3 fire tenders of DPMC/Fire station were used for firefighting. Entire fire fighting water was collected and transferred to in house ETP for further treatment and was treated in RO and then MEE to maintain ZLD. The entire quantity of wastewater was disposed of in a safe and environment friendly manner by the factory. This aspect was supervised and later confirmed during inspection on 07.02.2023.

13. Some of the plant machinery of plant 4 of the factory got damaged in the fire. Approximately 40 tonnes of debris, in the form of burnt process waste, charred remains of metals i.e scrapes, pipes, valves & waste insulation material got generated in the accident. The same was instructed to be disposed of by the Pollution Control Board in a scientific manner since it was believed that there would be presence of chemicals in the debris. Accordingly, the quantity of 5.690 tonnes of burnt process waste was sent to RSPL on 28.08.2023 and other waste like metal, scrap, pipes, valves, wires etc. is stored in premises as presently under custody of insurance company.
14. During inspection on 10.12.2022 ambient air quality was monitored by the Pollution Control Board using handy gas analyser and presence of VOC was observed near production plant where fire occurred and 10 meters away from production plant as 2.2ppm and 0.5 ppm respectively. At the time of inspection, the ambient air quality was reported to be poor. However, air quality improved after the fire was doused at the site. No cases of any respiratory problem having been suffered by persons in surrounding areas were reported or otherwise observed.

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ENVIRONMENT DAMAGE & COMPENSATION

The material collected at the time of accident and thereafter, and now available on record, permitted a judicious conclusion that incident of fire which took place in the factory of the 1st respondent did cause damage to the environment. However, the Board has not been able to determine the nature and extent of damage caused by the accidental fire.

16. I submit that compensation is a natural sequitur and necessary consequence to violation of environmental laws. Once it is prima facie established that a particular industrial unit has violated environmental norms or is responsible for causing damage to the environment, such unit stands liable, both in fact and in law, to paying compensation.
17. The amount of compensation is ordinarily calculated on the basis of formula prescribed by the Central Pollution Control Board. However, in the present case, as the extent of damage is unascertainable, the State Pollution Control Board has, relied upon one of the available parameter – ambient quality at the time of inspection and fire incident, and basis the results suggesting the air quality to be between ‘moderate to poor’ assessed Rs. 10,00,000/- as interim environment damage compensation. The 1st respondent has deposited the entire amount of Rs. 10 lacs with the Board.

PRESENT STATUS

18. The Inspector under the Factories Act, 1948 has lifted the prohibition on use of Powder processing area of Production Plant 4 after satisfying itself about the structural stability and other safety issues. Basis the report of Directorate of Industrial Safety and Health which initially granted partial revocation of the shut down direction and later complete revocation of the shut down direction, the Board initially issued trial revocation order on

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- 20.03.2023. The only activity permitted in Plant-4 was in powder processing area. During this period, the unit operated properly and no environmental hazards were noticed in the functioning of the industry. The trial revocation was therefore extended for a period of 03 months on 27.07.2023.
19. On finding the performance of the industrial unit to be proper and in compliance with safety standards and environmental laws, a permanent revocation was issued for only powder processing activity in the area of Plant 4 on 5.12.2023.
20. The unit has made an application for permanent revocation of the closure order for the entire production area of Plant-4, which is under process.
21. Today unit is complying with the directions issued by Board and DISH has lifted prohibition order on operation of Plant-4 vide letter dated: 14/09/2023.

GRIEVANCE OF APPLICANT

22. The applicant has voiced 02 grievances :
- (i) determination of environmental damage compensation, and
 - (ii) mentioning of his name in the incident report prepared by the Board.
23. As far as the first grievance of the applicant is concerned, the same does not survive now as the Board has already determined the amount environmental damage compensation. An amount of Rs. 10 lacs has been assessed by the Board. The said amount has been duly deposited by the 1st respondent on 11.01.2023.
24. The other grievance of the applicant about having his name highlighted in the incident report is misconceived and not tenable in law. An impression gets gathered from a reading of the prayer.

Always



that the applicant is publicity hungry and seems to have informed the occurrence of incident of fire for fame rather than towards discharge of civic duty and concern for the environment. Even otherwise, the report has already been prepared and there is no provision in law for the Board to make correction in the incident report regarding mentioning the name of applicant in inspection report dated 10.12.2022.

CONCLUSION

- 25. I submit the principal cause for filing of the present application now does not survive and therefore the present application may be disposed of suitably by the Hon'ble Tribunal.
- 26. The Gujarat Pollution Control Board shall abide by any and all reasonable directions or orders that may be issued in this behalf by the Hon'ble Tribunal.

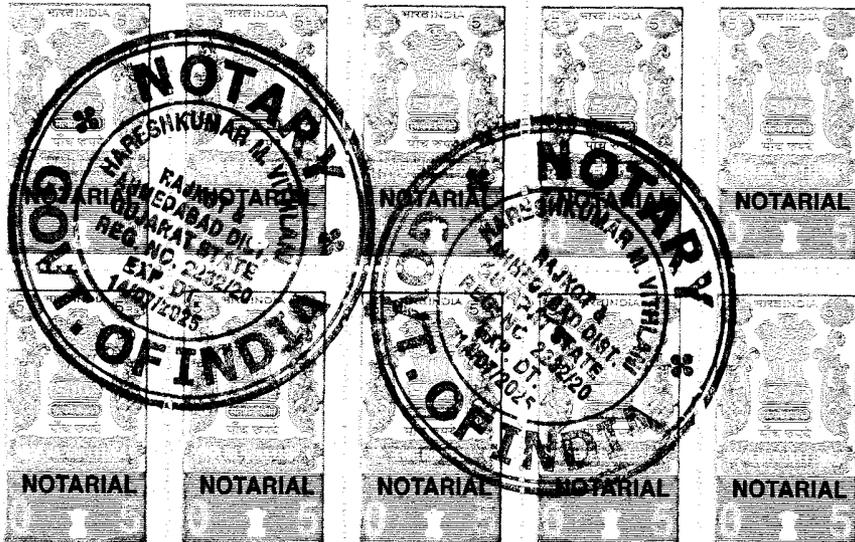
BOOK No.: 02
 PAGE No.: 18
 SR No. 51
 DATE ... 11/03/2024

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DEPONENT

VERIFICATION

Verified at Gandhinagar on this ___ day of March, 2024 that the contents of the above affidavit are true and correct, nothing stated therein is false and nothing material has been concealed therefrom.



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DEPONENT

SOLEMNLY AFFIRMED BEFORE ME

H.M. Vithlani
HARESHKUMAR M. VITHLANI
NOTARY
GOVT. OF INDIA



146 GUJARAT POLLUTION CONTROL BOARD

PARYAVARAN BHAVAN, SECTOR 10-A,
GANDHINAGAR - 382010,
(T) 079-23232152

BY R.P.A.D.

CLOSURE DIRECTION UNDER SECTION 31-A OF THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT-1981 [HEREINAFTER REFERRED TO AS THE AIR ACT] AS AMENDED FROM TIME TO TIME

WHEREAS you M/s. Alkem Laboratories Ltd. are having an industrial plant at **N.H.-8 & AT: NAUAGAMA, VILL: MANDVA, ANKLESHWAR, DIST.BHARUCH.**

AND WHEREAS Gujarat Pollution Control Board has granted you consent under the provisions of Air Act-1981 by its Consent Order No.AWH -107142, valid up to 18/12/2024 for operation of the industrial plant with various conditions mentioned therein.

AND WHEREAS during the inspection of your industrial plant on **10/12/2022** under section-24 of the Air Act by the authorized officer of the Board it has been noticed that:

1. Air pollution occurred due to Fire incidence occurred on dated 10 /12/2022 at about 11:30 hrs in Production plant No-4 during the transfer of the ML from tank to Drums during the production of Aripiprazole and due to the fire, dense blackish smoke emission occurred, which dispersed in the atmosphere, creating air pollution in areas located in downwind direction.
2. Ambient Air quality monitoring using handy multi gas analyzer is done and reading of the same is as follows: - (1) near production plant where fire occurred: - HC-3.0 ppm, VOC- 2.2 PPM, SO₂-0.0 PPM, CO- 0 PPM, H₂S- 0.0 PPM (2) @ 10 Meter away from fire location, within premises: - HC-0 ppm, VOC- 0.5 PPM, SO₂-0.0 PPM, CO- 0 PPM, H₂S- 0.0 PPM. (3) Outside premises near Main gate - HC-0.0 ppm, VOC- 0.0 PPM, SO₂-0.0 PPM, CO- 0 PPM, H₂S- 0.0 PPM.
3. During inspection firefighting wastewater is found going to internal storm water drain and analysis report of the sample of firefighting waste water collected from internal storm drain within premises shows parameter pH: 8.23, COD: 2732 mg/l, BOD: 652 mg/l, O & G: 6 mg/l, NH₃-N: 6.16 mg/l, Phenolic Compound: 1.64 mg/l.
4. The person is injured during the rescue operation.
5. Information of fire accident in this industry is received from social media, industry has not informed regarding the fire accident.

AND WHEREAS the non-compliance as narrated above, observed in your industry is contributing to the pollution problem in Ankleshwar area.

UNDER THE CIRCUMSTANCES, as directed, I Arun G. Patel, Environment Engineer, Gujarat Pollution Control board issue the direction under Section 31(A) of the Air Act - 1981 as under:

To prohibit the manufacturing activity on **immediately for Plant-4 of your industrial plant** at N.H.-8 & AT: NAUAGAMA, VILL: MANDVA, ANKLESHWAR, DIST.BHARUCH.

Clean Gujarat Green Gujarat

Website : <https://gpcb.gujarat.gov.in>

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Outward No: 0052016/01/2022

2. To stop operation of D.G. set and CPP(if any) with immediate effect.
3. To close the operation of your industrial plant (**plant-4**) on the above mentioned site with immediate effect.
4. To direct the concerned authority to stop supply of electricity and water for **plant-4** with immediate effect.
5. This order will be effective with **immediate effect**.
6. To take all necessary measures to safely remove all remaining in-process material/ intermediate materials considering requisite process safety aspects.
7. To ensure safely collection of residues of chemicals / hazardous & other wastes generated from accident and dispose the same as per provisions of the HOWM Rules-2016 under intimation to the Board.
8. To ensure safely collection of contaminated wastewater generated due to fire fighting activity and dispose it in Environmentally Sound Manner as per provisions of the CC&A under Water Act, 1974 under intimation to the Board.
9. To take all necessary measures to ensure safety of all reactors, equipment etc. to prevent further mishapping and environmental damage.
10. To carry out safety audit/ HAZOP study and root cause analysis for accident that shall include environment aspects at the earliest and submit the same to the board.
11. To submit compliance report of the instructions / directions/ prohibition order/ closure direction issued by DISH w.r.t. above accident.
12. To submit valid PLI and site notification (site plan approved by DISH)
13. Submit Bank Guarantee of Rs. 5,00,000/- claimable within Gujarat State.
14. Pay Rs. 10,00,000/- as interim Environment Damage Compensation by RTGS immediately in Following A/C.

A	Name Of Payee	GUJARAT POLLUTION CONTROL BOARD
B	Bank Account Number	10325062238
C	Type of Account	CURRENT
D	Bank	STATE BANK OF INDIA
E	Branch	GANDHINAGAR ZONAL BRANCH
F	Branch Address	SECTOR-10/B, IN FRONT OF NEW SACHIVALAYA, GANDHINAGAR-382010
G	IFSC Code	SBIN0001355

If the above direction is not complied, you are liable for prosecution under Section 37 of the Air (Prevention and Control of Pollution) Act-1981 which provides punishment with imprisonment for a term not less than one year and six months and may extend to six years and with fine.



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PARYAVARAN BHAVAN, SECTOR 10-A,
GANDHINAGAR - 382010,
(T) 079-23232152

You will submit at the earliest possible a copy of the letter from the concerned authority indicating disconnection of electric power/water supply with the date, time and meter reading. It is to be noted that without receipt of this letter revocation application will not be considered.

This letter is issued with the approval of the competent authority.

For and on behalf of
Gujarat Pollution Control Board

Arundhati
06/01/2023
(Arun G. Patel)

ENVIRONMENT ENGINEER

Note: If it is necessary to complete the safety related work or to close down safely in order to avoid any pollution or accident further you have to comply with above order immediately after safe close down maximum within 48hrs. Officers of Power Company or officers who visit the industry for sealing process are requested to comply with this note.

NO: GPCB/ANK/CCA-1003(6)/ID-25927/

Dated: /01/2023

Issued to:

✓ M/s. ALKEM LABORATORIES LTD.
N.H.-8 & AT: NAUAGAMA,
VILL: MANDVA, ANKLESHWAR,
DIST: BHARUCH, GUJARAT.

COPY TO:

1. The Dy. Engineer (O&M)

Dakshin Gujarat Vij Company Ltd (DGVCL),
GIDC Sub-Division, DGVCL,
Plot No.U/4/2, opp: GIDC Police Station,
GIDC Ankleshwar, Dist. Bharuch.....

I am directed to request you to disconnect supply of **ELECTRICITY** (except single phase) with **immediate effect** from the date of issue of this order to the **PLANT-4** of **M/s. ALKEM LABORATORIES LTD., N.H.-8 & AT: NAUAGAMA, VILL: MANDVA, ANKLESHWAR, DIST.BHARUCH** & intimate to us accordingly.

2. The Chief Officer

Ankleshwar Notified Area
Plot No.619/619,
GIDC Ankleshwar,
Dist. Bharuch.....

I am directed to request you to disconnect supply of **WATER** with **immediate effect** from the date of issue of this order to the **PLANT-4** of **M/s. ALKEM LABORATORIES LTD., N.H.-8 & AT: NAUAGAMA, VILL: MANDVA, ANKLESHWAR, DIST.BHARUCH** & intimate to us accordingly.

Outward
NO 100519/810/2023

Clean Gujarat Green Gujarat

Website : <https://gpcb.gujarat.gov.in>

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3. Regional Officer

Gujarat pollution Control Board,
Regional Office,

Ankleshwar..... to follow up for compliance of this direction & send IR/AR.

For and on behalf of
Gujarat Pollution Control Board

Arundh
06/01/2023

(Arun G. Patel)

ENVIRONMENT ENGINEER

Outward No: 700520, 06/01/2023