



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
Original Application No.174/2024(WZ)

Dr.Kalyani Mandke

... Applicant

v/s

State of Maharashtra & Ors.

... Respondents

**Affidavit on behalf of Respondent No.3-Maharashtra
Pollution Control Board**

I, J.S. Salunkhe, Aged Adult, Occupation : Service, the Regional Officer of the Maharashtra Pollution Control Board at Pune, having my office address at 2nd Floor, Jog Centre, Wakdewadi, Pune – 411003, do hereby state on solemn affirmation as under –

1. I say that I am the Regional Officer of the Respondent No.3-Maharashtra Pollution Control Board at Pune and I am authorized to affirm the present reply affidavit on its behalf.
2. At the outset, I say that the present Application is filed regarding enforcement of Noise Pollution (Regulation and Control) Rules, 2000 during the Ganesh Festival celebration in Pune city.
3. I am filing this affidavit in pursuance of the Order dated 21/8/2024 passed by this Hon'ble NGT. I crave leave to file the detailed affidavit as and when necessary.



4. I say that Maharashtra Pollution Control Board (hereinafter "MPCB") is the autonomous body and is the statutory authority for the prevention and control of water pollution as contemplated under Section 4 of the Water (Prevention & Control of Pollution) Act, 1974 and shall be deemed to be the State Board for the prevention & control of air pollution under the provisions of the Air (Prevention & Control of Pollution) Act, 1981. Besides this, the Respondent-Board is implementing the Environment (Protection) Act, 1986 and Rules made thereunder.
5. I say that in exercise of the powers conferred under Clause (ii) of Sub-Section (2) of Section 3, Sub-Section (1) and Clause (b) of Sub-Section (2) of Section 6 and Section 25 of the Environment (Protection) Act, 1986 (29 of 1986) read with Rule 5 of Environment (Protection) Act, 1986, the Central Government makes the Noise Pollution (Regulation & Control) Rules, 2000.
6. One Shri Mahesh Bedekar has filed a Public Interest Litigation bearing No.173/2010 against State of Maharashtra & Ors. before the Hon'ble High Court of Judicature at Bombay regarding violation of Noise Pollution (Regulation & Control) Rules, 2000 by various Authorities in the State of Maharashtra. Similarly, various other Writ Petitions/Public



Interest Litigations filed before the Hon'ble High Court, Mumbai on an identical issue, which are clubbed with the aforesaid PIL No.173/2010. In the said Clubbed matters, while disposing the matter, the Hon'ble High Court, Mumbai has passed an elaborate Order dtd.10,11,12 & 16th August, 2016, wherein, various directions were issued to the concerned Authorities, which are reproduced as under :

- **Paragraph : 47-** In view of the Govt. Notification bearing No. S. O. 394 (E) issued by the Govt. of India, the Chairman or the Member Secretary or the Regional officers of the Maharashtra Pollution Control Board have been authorized in terms of cl (a) of the section 19 to file complaints. If such officers file complaints, they are not required to give notice of sixty days as provided in cl (b) of section 19. In the said Central Govt. Notification, even the collector is authorized under cl (a) of section 19 to set the cr. Law in motion.
- **Paragraph : 68-** Therefore, we propose to direct the authority under the Noise pollution Rules to ensure that as soon as a complaint is received or information is received from the police officer or information is otherwise received regarding any **major violation of the Noise pollution Rules, immediate information thereof shall be provided to the officers of the Maharashtra Pollution control Board or the Dist. Collector who**



have been authorized under (a) of section 19 to take action. As soon as such intimation is received, either the Dist Collector or officers of the Pollution Control Board will have to take immediate steps to make a complaint contemplated by section 19 of the Environment (protection) Act in as much as if the Collector or the authorized officers make a complaint, it is not necessary to them to follow requirement of giving 60 day's notice under section 19. Even the police officers can set cr. Law in motion after taking recourse to cl(b) of section 19.

- **Paragraph : 89-** The provisions is similar to Rule 8 of the noise Pollution Rules. **Under section 38 of the Maharashtra Police Act, the power is conferred to the Commissioner of Police & Superintendent of Police to order prevention of music sound or noise.** On receiving the report/complaint of nuisance created by music or sound or instrumental noise, the officer in charge of the concerned Police station the same communicate the said report immediately to the commissioner of police or the Superintendent of police to enable to the **said authority to take immediate action under section 38 of the Maharashtra Police Act.**
- **Paragraph : 94(xxii)** In case of any complaint received by the authority as regards non-compliance with the Noise Pollution Rules or breach of noise Pollution Rules,



the concerned authority shall set cr. law in motion by taking recourse to cl (b) of section 19 of the Environment (Protection) Act.

7. I say and submit that the Respondent Board in the exercise of its powers under Section 15 of the Air (Prevention and Control of Pollution) Act, 1981 and other enabling provisions under the Environment (Protection) Act, 1986, authorized the Sub-Regional Officers of the Board to exercise the powers of the Regional Officers under the Noise Pollution Rules.

8. I say and submit that in compliance of the Order passed by the Hon'ble High Court and on the basis of noise monitoring and Pachamama done by the concerned police stations, MPCB is filing criminal cases against the violators before the various courts of law under Section 15 of the Environment (Protection) Act, 1986 r.w. provisions of Noise Pollution (Regulation & Control of Pollution) Rules, 2000.

Solemnly affirmed on this ...²⁸... Day of August, 2024 at

.....

BEFORE ME

SRTawde

SHUBHANGI RAJENDRA TAWDE
NOTARY GOVT. OF INDIA
PUNE

For and on behalf of Maharashtra
Pollution Control Board

(J. S. Salunkhe)
Regional Officer-Pune



NOTED & REGISTERED
AT SERIAL NO/DT. 601
2024.

28 AUG 2024