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HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPLICATION NO. 58/2022 (WZ)

Aryavart Foundation Applicant

VERSUS

RIA CETP Respondents
Co. Op. Society Ltd. & Ors.

AFFIDAVIT BY RESPONDENTS NO. 4
MAHARASHTRA INDUSTRIAL DEVELOPMENT
CORPORATION (MIDC)

Date: **24/05/2023**

Place: Thane

Filed by:

A-202 Chandravijay, Phule Road, Opp. Bansuri Hotel,
Mulund East, Mumbai - 400081, Maharashtra, India.
7400116222 mahabal60@gmail.com



Raghunath Mahabal रघुनाथ भालचंद्र महाबळ
BE (Mechanical), ME (Industrial Management) VJTI Mumbai
Chartered Engineer, FIE, Arbitrator-IIE, LLM **ADVOCATE**

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CONTACT DETAILS OF PARTIES**BETWEEN****..... APPELLANT**

- 1. Aryavart Foundation,**
Through its President
Sh. Ashutosh Rameshbhai Mishra
Head Branch and Administrative
Office at: Shop No. J-50, Upper Ground Floor
Japan Market, Near Delhi Fate, Ring
Road, Surat, Gujarat – 395003
Mobile :
Email : armishra82@yahoo.in

VERSUS**..... RESPONDENTS**

- 1. RIA CETP Co. Op. Society Ltd (RIA CETP)**
- 2. Maharashtra Pollution Control Board (MPCB)**
- 3. Central Pollution Control Board (CPCB)**
- 4. Maharashtra Industrial Development Corporation (MIDC)**

ABBREVIATIONS USED

Short form	Full-form
BOD	Biological Oxygen Demand
C2E	Consent to Establish
CETP	Common Effluent Treatment Plant
COD	Chemical Oxygen Demand
CPCB	Central Pollution Control Board
CTO	Consent to Operate
m³/day	meter cube per day
MIDC	Maharashtra Industrial Development Corporation
MLD mld	million litres per day = 1000 m ³ /day
MoEFCC	Ministry of Environment, Forests and Climate Change, Government of India
MPCB	Maharashtra Pollution Control Board
NEERI	National Environmental Engineering Research Institute
OA	Original Application
pH	Potential of Hydrogen
PMC	Total Organic Carbon
RIA	Roha Industries Association
RIA CETP	Common Effluent Treatment Plant
SCADA	Supervisory Control and Data Acquisition [automatic system that controls CETP]
SPCB	State Pollution Control Board
TKN	Total Kjeldahl Nitrogen

DIARY OF EVENTS

Date	Particulars
2018/03/01	Amalgamation of First CTO
2020/07/14	JVS Report of CETP
2020/09/28	MPCB Visit Report
2020/10/05	JVS Report of CETP
2020/10/14	JVS Report of CETP
2020/10/27	JVS Report of CETP
2020/11/13	Direction from MPCB
2020/11/23	MPCB Visit Report
2020/12/15	MPCB Visit Report
2020/12/15	JVS Report of CETP
2020/12/23	JVS Report of CETP
2020/12/24	JVS Report of CETP
2021/01/20	MPCB Visit Report
2021/01/27	Direction from MPCB
2021/02/23	MPCB Visit Report
2021/03/05	Direction received from MPCB
2021/05/19	MPCB Visit Report
2021/06/01	MPCB Visit Report
2021/06/30	SCN received from MPCB
2021/07/12	MPCB Visit Report
2021/09/16	MPCB Visit Report
2021/09/28	MPCB Visit Report
2021/12/15	MPCB Visit Report
2022/01/31	MPCB Visit Report
2022/10/--	Joint Committee Report

MOST RESPECTFULLY SUBMITTED

1. I, Vaibhav K. Patil, am working as Deputy Engineer, MIDC, Roha Sub-Division, am filing this affidavit in continuation with earlier affidavits dated 10/10/2022 (page Nos. 404-692) and 03/11/2022 (pages 720 to 738). This is being filed with a view to further clarifying the issues raised during the hearing on 31/03/2023 and recorded in the Daily Order.

2. During the hearing on 31/03/2023, the following points emerged, which have been responded to at the outset.

RIA CETP UPDATE AS OF DATE

3. Respondent No.4/MIDC states that the CETP upgradation work is complete in terms of construction, plant and machinery installation on **30/04/2023**. The commissioning trials are going on. The CETP was operative at all times even during the upgradation work.

ROLE OF MIDC IN THE PAST

4. That the MoEFCC Guidelines have clearly defined the roles of the Project Proponent (RIA CETP) at Point No.4, State Government/ SPCB at Point No.5, and Central Government / CPCB at Point No.6.

5. That MIDC was the facilitator at all times. MIDC gave its capital cost contribution as per the summary given.

Sr	MIDC CONTRIBUTION	DETAILS
1	The land was given for CETP and its upgradation at a concessional rate	54,311.00 m ² at Rs. 1 per m ²
2	Set up of CETP up to 10 MLD	Year 2005
3	Expansion of CETP from 10 MLD to 22.5 MLD	Year 2017
4	Design, build and commissioning including rehabilitation & upgradation on DB basis of the 22.5 MLD CETP.	Rs.45 Crore
(a)	MIDC's Contribution (70%) - Rs. 31.50Crore	Rs. 40.11 Crore paid
(b)	MPCB's Contribution (05%) - 2.25 Crore	Nil
(c)	RIA CETP Co. Op. Soc. Ltd. member contribution (25%) - Rs.10.36 Crore	Rs. 4.65 Crore Paid

6. That MIDC has facilitated the collection of payments from RIA CETP Co.Op. Soc. Ltd. member industries and payment is made to CETP operator.

7. That as per the MoEFCC Scheme, a specific dedicated SPV "**RIA CETP Co. Op. Society Ltd.**" was created for this purpose.

8. That as MIDC was directed by MPCB u/s. 33A of the Water (Prevention & Control of Pollution) Act,

1974, vide letter dated 06/03/2017. MIDC is not generating the effluent. MIDC doesn't own the RIA CETP Co.Op. Soc. Ltd. even today. All the assets belong to RIA CETP Co.Op. Soc. Ltd. only. The effluent quality is to be ascertained and checked by the RIA CETP Co.Op. Soc. Ltd. at their inlet. MIDC has no control over that.

9. That MPCB has the regulatory duty, function and authority to carry out inspection of industries, take samples and take action against polluting industries. No such power is vested with MIDC.

10. That the effluent is collected and analysed by RIA CETP Co.Op. Soc. Ltd. and only if it conforms to the inlet standard specified in the consent to operate, then it will be allowed to be admitted in the CETP.

11. That MPCB has recently granted the amalgamated Consent to Operate with an expansion of the RIA CETP Co.Op. Soc. Ltd. with a total capacity of 22.5 MLD. The Consent is granted to the "occupier" and RIA CETP Co.Op. Soc. Ltd. is the occupier, admittedly as per their own application for the Consent to Operate.

12. That the agency appointed for the upgradation of RIA CETP Co.Op. Soc. Ltd. and its Operation and Maintenance, are as per the agreed terms. The role of MIDC is clearly mentioned in that.

13. That MIDC is the nodal agency for facilitating the collection and disposal of effluent in the MIDC area. To further facilitate the working of CETP, the treatment charges collected by MIDC are passed on to RIA CETP

Co.Op. Soc. Ltd. and the agency appointed for upgradation and O & M of CETP.

14. That MIDC doesn't generate any effluent. Therefore, MIDC has not applied for Consent to Operate u/s. 25 of the Water Act. The staff appointed by RIA CETP Co.Op. Soc. Ltd. is continued by the CETP operator.

15. That MPCB has issued the directions u/s. 33A to MIDC to facilitate the upgradation and O & M of CETP. MIDC is doing that as per the directions of MPCB. The upgradation work is now complete. The commissioning work of CETP is going on through the agency.

16. That MIDC has no special expertise in the field of effluent treatment, environment and CETP upgradation OR its O&M.

17. That the RIA CETP Co.Op. Soc. Ltd. scheme and its upgradation are approved by NEERI and MPCB, both. If the Member industries treat their effluent as per the CETP INLET STANDARDS given in the Consent, then RIA CETP Co.Op. Soc. Ltd. would function more effectively.

18. That the control on raw effluent quality admitted is with RIA CETP Co.Op. Soc. Ltd.. The effluent being admitted is monitored by RIA CETP Co.Op. Soc. Ltd. and MPCB, independently. MIDC has no control over this.

19. That the shock loads due to highly polluted effluent beyond the inlet standards, if not controlled by RIA CETP Co. Op. Soc. Ltd. Members, then it will upset the biological process in the CETP.

EFFLUENT TREATMENT IS THE STRICT AND ABSOLUTE RESPONSIBILITY OF POLLUTERS

20. That the effluent is generated by the Member industries. Member SSI industries were finding it uneconomical to install a full-fledged ETP. Hence for such SSI, a CETP was provided.

21. That the MIDC role was that of the facilitator. The after expiry of central assistance which was 50% of capital cost, MIDC is providing financial assistance to the extent of 70% of capital cost & the remaining 25% is to be raised by the RIA CETP Co.Op. Soc. Ltd. member industries and MPCB grants 5% of the project cost in the form of a subsidy.

22. That the RIA CETP Co.Op. Soc. Ltd. is the SPV and is the sole responsible agency for the effective treatment of the effluent collected.

23. That if this RIA CETP Co.Op. Soc. Ltd. has to function effectively, the industries will have to limit the effluent quality sent to RIA CETP Co.Op. Soc. Ltd. as per the conditions of the Consent and design of CETP inlet criteria. The influent quality is monitored by RIA CETP Co.Op. Soc. Ltd. and its Members, as it's their own responsibility. It is also monitored by RIA CETP Co.Op. Soc. Ltd. before admitting their effluent to the

CETP. RIA CETP Co.Op. Soc. Ltd. and MPCB know the defaulter industries. RIA CETP Co.Op. Soc. Ltd. ought to have stopped the effluent from such defaulting industries which do not meet inlet criteria. Further, they ought to have shared the data with MPCB for taking further legal action and preventive action so that such effluent is not sent to CETP.

24. That the CETP is designed to accept the effluent with COD up to 2500 mg/L whereas the COD observed in the inlet of CETP is say even up to 6,000 mg/L.

25. As such the strict and absolute responsibility will be that of Member Industries and RIA CETP Co.Op. Soc. Ltd., who generate the wastewater/effluent and suppress the data and allow such highly polluting effluent to the inlet of the CETP.

ROLE OF MPCB

26. That the role of MPCB has been defined very clearly in **MoEFCC's Centrally Sponsored CETP Guidelines**, at Points No.5.1 to 5.12.7. For the sake of brevity, those are not reproduced here but are pointed out, referred and relied upon.

27. That the 'Water (Prevention and Control of Pollution) Act 1974' has cast duty and functions on SPCB u/s.17 of the Act and so also under s.30.

28. That MPCB has the statutory functions u/s.17. If MPCB feels necessary, it has the power to

obtain information u/s.20, power to take samples u/s.21, powers of entry and inspection u/s. 23, Power to carry out certain works u/s. 30. None of these powers are available with the MIDC.

29. That MPCB should guide the RIA CETP Co.Op. Soc. Ltd. as per the specific functions u/s. 17(f) and subsequent sub-sections. This function and expertise are available with the MPCB; and not with the MIDC.

APPROVAL OF ARRANGEMENT BY FORMAL MPCB CONSENT

30. That the RIA CETP design was done through eminent consultant M/s CH2M Hills India Pvt. Ltd. The upgradation work was done by M/s. **R & B Infra Project Pvt. Ltd. AND M/s. Hydroair Tectonics PCD Ltd. (JV).** **It was evaluated and approved by NEERI and MPCB.** The Consent to Establish and Consent to Operate, both, were granted on the basis of the complete treatment scheme details, treatment methodology, design, etc., submitted to MPCB.

31. That the RIA CETP Co.Op. Soc. Ltd. has paid Consent Fees to MPCB for scrutiny of the application and formal statutory Consent was obtained for the CETP to be provided.

32. That the O&M work is given to M/s. **R & B Infra Project Pvt. Ltd. & Hydroair Tectonics PCD Ltd. (JV).**

33. That MPCB has given Consent to Operate to RIA CETP Co.Op. Soc. Ltd. based on the documents submitted to them and after proper scrutiny of the same.

CONSENTED POLLUTION LOAD

34. That currently, the total effluent generated itself has decreased substantially. As such, even when the upgraded CETP is ready to handle the capacity/flow of 22.5 MLD in total; the actual flow is <9 MLD.

35. That the absolute pollution load in terms of kg/day also has therefore decreased (almost half) due to reduced volume.

36. The disposal arrangement by laying the pipeline of 14.7 km and diffusion was to cater to and effectively diffuse the pollution load corresponding to the full flow of 22.5 MLD.

37. As such the current disposal arrangement, due to an almost 50% reduction in absolute total pollution load (in terms of kg/day even with increased concentrations), is effectively disposing of the treated effluent to the environment Without any damage to the environment and effectively diluting the effluent in the proper sustainable diffused manner. The diffused levels of pollution, after a distance of 100m from the discharge point, are within the sustainable limits.

STRICT AND ABSOLUTE RESPONSIBILITY FOR FAILURE TO TREAT EFFLUENT

38. That the strict and absolute responsibility to treat the generated effluent to the standards that are laid down in the Consent to Operate is with the Member Industries and RIA CETP Co.Op. Soc. Ltd.. They are duty-bound by law and the conditions of the Consent, to limit the effluent quantity and quality to the acceptable inlet standards, as laid down in the consent.

39. That RIA CETP Co.Op. Soc. Ltd. is duty-bound to be vigilant, in not allowing the effluent from such defaulting industries to CETP.

40. That MIDC as of date is getting the effluent much beyond the designed and prescribed standards and has no option but to run the CETP, with such effluent as fait accompli. This is something that can't be controlled by the MIDC. The entire controls for this are with RIA CETP Co.Op. Soc. Ltd.. Further, it is only the MPCB who can take action against such defaulting industries and/or take samples and find out such industries.

VIOLATION OBSERVED AT INLET TO CETP OF RAW EFFLUENT QUALITY

41. That MPCB has issued the latest 'Consent to Operate' dated 30/07/2022 valid up to 31/12/2025. On-Page 6/11 of the Consent, MPCB has prescribed the treated effluent standards.

42. That MPCB has also issued the raw effluent standards that can be admitted to RIA CETP Co.Op. Soc. Ltd.. If these standards are not met, the treated effluent shall not be as per the standards.

43. That the BOD/COD are the basic measures for this. The CETP is designed to accept and treat the COD of levels up to 2500 mg/L, however, the Member industries are letting out much higher COD concentrations, say even up to 6,000 mg/L. The CETP can't function with such an exceedance of the levels. This is just one parameter mentioned.

44. That MIDC had no control over it. The effluent is let out by Member industries. It is tested by MPCB and RIA CETP Co.Op. Soc. Ltd., as part of their duty and function and the responsibility. The CETP and MIDC is the victim when such a massive shock load enters the CETP. Closing down the CETP will have even more undesired effects on the environment; AND there is no mechanism in the hands of MIDC, once such effluent is allowed.

ENVIRONMENT DAMAGE COST: WHO SHOULD PAY AND WHERE IT SHOULD BE USED

45. That MIDC would be the sufferer when the raw effluent is not meeting the standards. The CETP can't be closed for fear of further worsening the scenario on the environmental front.

46. That the **absolute financial advantage in not meeting the raw effluent treated standards, as**

per the Consent condition, is to the Member Industries. Effluent, let out without treatment, will benefit the Member industries and RIA CETP Co.Op. Soc. Ltd. as they are still charging the Members without discharging their duty. As per MPCB consent, if the CETP is not able to achieve the outlet parameters, then all the members and the said Society would be individually and jointly responsible and liable for legal actions under the provisions of sections 47 of the Water(Prevention & Control of Pollution) Act, 1974.

47. That RIA CETP Co.Op. Soc. Ltd. is suppressing this information, by not sharing the data of the defaulting industries and still allowing them to admit their effluent in CETP.

48. As such, the environmental penalty shall be borne by the Member Industries of RIA CETP Co.Op. Soc. Ltd.

49. That MIDC did not have statutory duty or function or expertise to design or operate the CETP. But even then, when Member Industries and RIA CETP Co.Op. Soc. Ltd. failed in their assigned duties, MIDC was compelled to take this over, as a third party, as per the directions of MPCB issued u/s. 33A.

50. That as the Member Industries and RIA CETP Co.Op. Soc. Ltd., both, were not doing its duty, the R-4/MIDC was directed by MPCB as the step ahead to function as the nodal agency.

51. That the prayers in the Original Application are also the same, even after the amendment of the OA

and addition of the Respondent parties. All the prayers are against the RIA CETP Co.Op. Soc. Ltd.. **There is no allegation that MIDC is generating the effluent.**

WHAT SHOULD BE DONE NOW

52. Respondent No.4/MIDC states that it has no special technical or scientific knowledge in O&M. There is no propriety in continuing this futile exercise, without the support of Member Industries, RIA CETP Co.Op. Soc. Ltd. and MPCB.

53. Respondent No.4/MIDC states that, as to be adjudicated by Hon'ble Tribunal, then MPCB should take it upon themselves to run this CETP as model CETP u/s. 30 of the 'Water (Prevention and Control of Pollution) Act 1974', since MPCB has issued direction u/s 33(A) of the water act to MIDC. However, where the role of MIDC will be facilitator only.

54. MPCB does have a lawful mandate under function u/s. 17 and statutory powers to do this, and recover the cost of the same from RIA CETP Co.Op. Soc. Ltd. and its Member Industries.

55. In light of the above, the Environment Damage cost shall be imposed on the RIA CETP Co.Op. Soc. Ltd. to be recovered from their Member Industries only, should be deposited with the MPCB and be utilised for the treatment of effluent in CETP and as a part of the balance capital cost contribution of RIA CETP Co. Op. Soc. Ltd. member industries to be paid to MIDC..

AND I shall ever pray for this act of kindness, as duty bound.

Place: Roha

Date: 24/05/2023

 x

Vaibhav K. Patil

Respondent No. 4 MIDC

VERIFICATION & AFFIDAVIT

I, Vaibhav K. Patil, age 48 years, Deputy engineer MIDC Roha Sub-Division do hereby verify that the contents of the affidavit above are true to my personal knowledge and are believed to be true on legal advice. I have obtained the technical information stated hereinabove from the concerned officials of the applicant company. I have not suppressed any material fact. Thereafter, I have made the above affidavit on solemn affirmation and oath.

Place: Roha

Date: 24/05/2023

 x

Vaibhav K. Patil

Respondent No. 4 MIDC

Identified by & signed before me:


H.P. Gangal
Advocate.

श्री. वैभव के. पटिल, उपाधी ४
शापथपत्र माझे समक्ष गांभीर्यपूर्वक पुर्ण केले असून त्यांची ओळख बकील श्री./श्रीमती स्व. पी. गोविंद यांनी दिलेली असून, त्यांना मी ओळखते.


24/05/2023
H.P. Gangal, Advocate
दिवाणी व फौजदारी न्यायक्षेत्र
रोहा, तह. रोहा, जि. रायगड

24/05/2023
दिवाणी न्यायक्षेत्र
रोहा, जि. रायगड



भारत सरकार
GOVERNMENT OF INDIA

आधार - सामान्य माणसाचा अधिकार

मूळ प्रतीकरण तपासले


24/01/2023
J. K. सहस्रबुधे
दिवानी व फौजदारी न्यायालय
सेना.ता.सेना, नि.रायगड



भारतीय विशिष्ट पहचान प्राधिकरण
UNIQUE IDENTIFICATION AUTHORITY OF INDIA

Aadhaar - Aam Aadmi ka Adhikar

