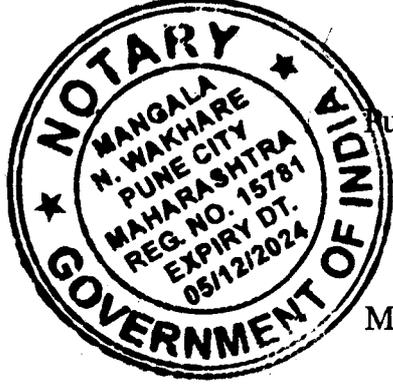


BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE.
APPEAL NO. 4 / 2023



Pune Municipal Corporation

.... Appellant

VERSUS

Maharashtra State Pollution Control Board & Ors. ..Respondents

**AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT-
BOARD TO THE APPEAL FILED BY THE APPELLANT.**

I, Shankar L. Waghmare, Age : Adult, Occupation-Service, the Regional Officer of the Maharashtra Pollution Control Board at Pune, having office address at 3rd Floor, Jog Centre, Wakdewadi, Old Pune Mumbai Road, Pune - 411 003, do hereby state on solemn affirmation as under:-

1. I say and submit that I am the Regional Officer of the Respondent-Board, having my address as mentioned above and competent, authorized and able to depose the present Affidavit. I have perused and made myself conversant with the contents and record pertaining to the present Appeal and I am otherwise well aware of the facts and circumstances of the present case from office records, and thus competent to depose the same. I say that I am filing the present reply for the limited purpose of

opposing the reliefs as sought by the Appellant. I crave leave to file a further detailed Affidavit/ Additional Affidavit along with supporting Affidavit if circumstances so warrant.

2. At the outset, I deny each and every averment made in the present Appeal which is contrary to and / or inconsistent with that which is stated in the present Affidavit in reply and humbly submit that nothing contained in the Memo of Appeal shall be deemed to have been admitted by or on behalf of the Respondent, merely for want of specific traverse. I clarify and submit that the averments made herein are in the alternative and without prejudice to one another.
3. The Respondent states that on reading the captioned original appeal in its entirety, it is clear that the Appellant has raised an allegation that the impugned order dated 09/01/2023 has been passed violating the principles of equity, natural justice and fair play. Also Appellant is seeking direction against Respondent not to initiate prosecution and recovery of compensation on 'Polluter Pays Principle' against the Appellant.

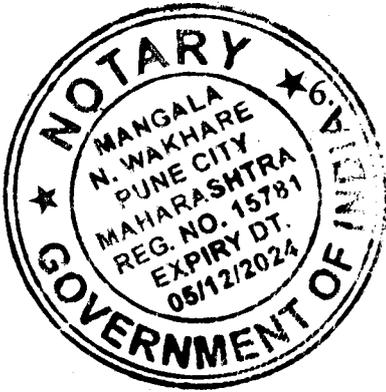
I say and submit that the Respondent Board had granted Authorization under the provisions of the Municipal Solid Waste (Management and Handling) Rules, 2000 on 10/3/2016 to the Municipal Commissioner, Pune Municipal Corporation, wherein it was specifically mentioned that the waste processing



and disposal facilities to be set up by the Municipal Authority on their own or through an operator of the facility shall meet the specifications and standards as specified in Schedule III and IV. As per the Municipal Solid Waste (Management & Handling) Rules, 2000 attracts the penal provisions of the Environment (Protection) Act, 1986. Hereto annexed and marked as **Annexure - I** is the copy of the Authorization dated 10/03/2016.

5. I say and submit that one Maj. Gen. S. C. N. Jatar had filed Original Application No. 190/2016 before the Hon'ble National Green Tribunal, Western Zone Bench, Pune against the violations of the Solid Waste Management Rules 2016 by the present Appellant in operation of 24 hours composting plants operated by M/s Ecoman Enviro Solutions Pvt. Ltd.

I say and submit that in compliance of the NGT order dated 27/01/2017 in the said O.A. No. 190/2016, the Officials of Respondent Board have carried out the visit on 07/02/2017, 03/03/2017 & 23/05/2018 at thermal composting plants located at Tarachand behind Red Cross, Rasta Peth; Peshave Park; Vadgaon Bk; Ghole Road; Koregaon Park; Vadgaon Sheri; Ambil Odha; Aundh; Pashan; Vaikunthh Smashan Bhumi; Kalyani Nagar; Hadapsar Kachara Depot and collected compost samples on same days. As per the analysis results, it was observed that the compost quality was not meeting the standards prescribed in Schedule II of the Solid

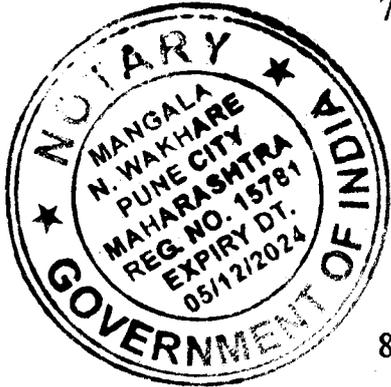




Waste Management Rules 2016. In the said OA, the Officials of the Respondent-Board collected samples from 7 composting plants of the Appellant and the analysis result of the same were received on 06/04/2017 which is a part of the Affidavit filed by the present Respondent dated 12/04/2017. As per the analysis results received, the parameters pH and Chromium were exceeding the prescribed standards for organic compost (FCO-2009), as per the Solid Waste Management Rules 2016. Also one composting sample collected at Koregaon Park unit was showing exceeding parameters for Copper, Lead and Nickel.

7. I say and submit that this Hon'ble Tribunal vide order dated 03/02/2022 directed MPC Board, i.e. the present Respondent to take appropriate action for violation of the SWM Rules, 2016 by way of initiating prosecution and recovery of compensation on 'Polluter Pays' principle.

8. I say and submit that pursuant to the order dated 03/02/2022 passed by this Hon'ble Tribunal in O.A. No. 190/2016, the Respondent Board has issued Notice for assessment of Environment Compensation of Rs.1,82,41,900/- (One Crore Eighty-Two Lacs Forty-One Thousand Nine Hundred Only) towards the assessment of damage already caused to the environment and recovery of Environmental Compensation as per 'Polluter Pays' principle vide letter dated 09/01/2023. The Appellant may recover the Environmental Compensation from





the Operator of the Facility. Pursuant to the Order dated 27/2/2023 passed by this Hon'ble Tribunal in the present Appeal, Respondent Board has filed Prosecution against the Operator of the Facility i.e. M/s Ecoman Enviro Solutions Pvt. Ltd under Sec. 15 of the Environment (Protection) Act, 1986 r/w Rules 15, 16 & 19 of the Solid Waste Management Rules, 2016 before the Hon'ble Chief Judicial Magistrate-Pune on 13/4/2023.

- 9. In the premises, therefore the answering Respondent submits that the Appeal be kindly be dismissed by this Hon'ble Tribunal.

Solemnly affirmed on this .17...day of April, 2023 at Pune.



I know the Affiant

For and on behalf of the Respondent- Maharashtra Pollution Control Board

ADVOCATE

(Signature)
(Shankar Waghmare) 17/04/2023
Regional Officer-Pune

BEFORE ME

(Signature)
MANGALA N. WAKHARE
ADVOCATE & NOTARY
GOVERNMENT OF INDIA

17 APR 2023



MAHARASHTRA POLLUTION CONTROL BOARD

Tel : 2402 0781 / 2401 0437
Fax : 2402 4068

Visit us at :
Website : <http://mpcb.mah.nic.in>
E-mail : mpcb@vsnl.net



Kalpataru Point,
2nd , 3rd & 4th floor,
Opp. Cineplanet,
Near Sion Circle, Sion (E),
Mumbai - 400 022.

No: BO/MSWA/B-CC/130

FORM -III
[See - Rule 6 (3)]

Date: 10/03/2016

To,
The Municipal Commissioner,
Pune Municipal Corporation
Shivaji Nagar,
Pune- 411 005

Sub: Authorization under Municipal Solid Waste Management and Handling) Rules, 2000.

Ref: Your application for grant of authorization dated 28/11/2015.

The Maharashtra Pollution Control Board after examining the proposal hereby authorizes The Commissioner, Pune Municipal Corporation Shivaji Nagar, Pune to operate Municipal Solid Waste Processing/ Waste Disposal Facility i.e. 13 number of composting plants at various sites (mentioned in the annexure I) on the terms and conditions (including the standards to be complied with) attached to this authorization.

1. The validity of the authorization is till 31/01/2017. After the validity, renewal of authorizations is to be sought.
2. The Maharashtra Pollution Control Board may at any time revoke any of the condition applicable under the authorization and shall communicate the same in writing.
3. Any violation of provisions of Municipal Solid Waste (Management & Handling) Rules, 2000 attracts the penal provisions of the Environment (Protection) Act, 1986 (29 of 1986).
4. This is issued with the approval of Consent Committee of the Board in its meeting held on 03/02/2016.
5. This authorization is granted without prejudice or being prejudice of the order passed/ to be passed by Hon'ble High Court/NGT.


(Dr. P. Anbalagan, IAS)
Member Secretary

D. A. - Annexure- I

Copy f. w. es- The District Collector, Pune - Being one of the implementing authorities having overall responsibility for the enforcement of the provisions of Municipal Solid Wastes (M & H) Rules, 2000, it is obligatory on your part to see that the Municipal Solid Waste is processed & disposed off in accordance with the said Rules.

Copy to: Regional Officer, MPCB, Pune / Sub Regional Officer, MPCB, Pune-1 - For necessary action.

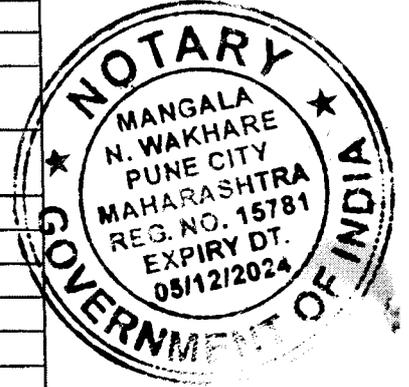
M/s Pune Municipal Corporation

ANNEXURE - 1

Terms & Conditions to Operate Municipal Solid Waste Processing/ Waste Disposal Facility i.e. 13 number of composting plants at various sites by The Municipal Commissioner, Pune Municipal Corporation, Shivaji Nagar, Pune-411 005 and through operating agencies as mention below.

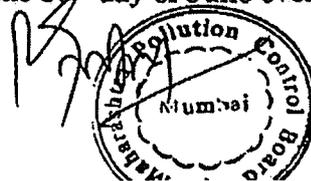
13 numbers of microorganism based of MSW composting plants of total capacity 49.82 MT/ Day are as below.

Sr. No	Project Location	Capacity Per Day
1.	Peshave Park	10 MT/D
2.	Vertak Garden	05 MT/D
3.	Mangalwar Peth Behind Arogyakothi	05 MT/D
4.	Tarachand Hospital behind Redcross	05 MT/D
5.	Tophkhana Pumping Station	05 MT/D
6.	Wadgaon Bk	05 MT/D
7.	Wadgaonsheri Biogas Plant	03 MT/D
8.	Burning GhatKaregaon Park	03 MT/D
9.	PMC Karmashala Swargate	05 MT/D
10.	Kanyashala Shanipur	03 MT/D
11.	Vertak Garden	0.5 MT/D
12.	Burning GhatKaregaon Park	125 Kg/D
13.	Ambilodha Colony	200 Kg/D



- Note :1] Old quarries and low-lying areas within a city may be earmarked for filling only with construction waste, debris, road- waste, road dust, silt from open drains & similarly non- toxic inert material, without any prior preparation. After filling, such sites should preferably be reserved as open spaces, parks, playgrounds, exhibition- grounds or parking - lots with trees.
- 2] The odour nuisance from the site can be controlled by periodic spraying of microbial culture or any suitable method.
- 3] At the initial stage of collection of Municipal Solid Wastes the waste minimization and segregation shall be carried out to avoid burden on the waste processing site.
2. The municipal authority shall comply with these rules as per the implementation Schedule laid down in Schedule I as per MSW (M &H) Rules, 2000.
3. Every municipal authority shall, within the territorial area of the municipality, be responsible for the implementation of the provisions of these rules, and for the infrastructure development for collection, storage, segregation, transportation, processing and disposal of municipal solid wastes.
4. All municipal solid waste generated in a city or a town, shall be managed and handled in accordance with the compliance criteria and the procedure laid down in Schedule-II.
5. The municipal authority shall furnish its annual report in Form-II, to the District Magistrate or the Deputy Commissioner with a copy to the Maharashtra Pollution Control Board, on or before of the 30th day of June every year.

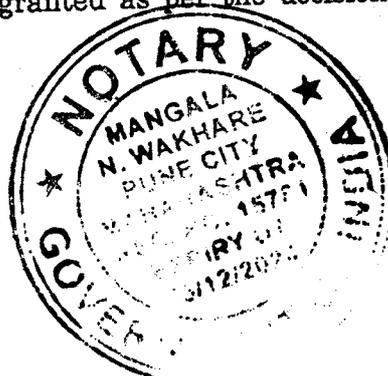
M/s Pune Municipal Corporation



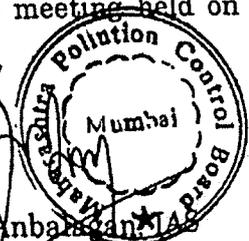
20. Corporation shall to measure, continuously Improve and Achieve the eight items of the Service Level Benchmarking defined and desired by the Ministry of Urban Development, Govt. of India which are as below.

SLB No in GL	Performance Indicator of UD's SLB	Level Desired
SLB 1	House Hold Level Coverage of SWM Services(house hold covered Doorstep/Total House Hold)	100%
SLB 2	Efficiency of Collection of MSW(MSW collected in Tones per day/MSW generated in T/day)	100%
SLB 3	Extent of Segregation of MSW(MSW segregated in Four Components in T/day/Total MSW Collected)	100%
SLB 4	Extent of Recovery of Solid Waste Collected(MSW Processed and Recycled T/d/Total MSW Collected)	80%
SLB 5	Extent of Scientific Disposal of MSW(Total authorized waste component disposed in T/day in SLF/Total MSW Disposed in Dumping sites, grounds, places and SLF)	100%
SLB 6	Efficiency of Redressal of Customer complaints(MSWM complaints received in a month/MSWM complaints Redressed in the month)	80%
SLB 7	Extent of Cost Recovery in SWM Services(Total O & M expenses on MSWM/Total O & M Revenue)in the same period)	100%
SLB 8	Efficiency in Collection of SWM Charges(Revenue Collected/Charges Billed in the same period)	90%

21. Corporation shall submit the concrete proposal with time bound programme for providing waste processing facility in accordance with the MSW Rules, 2000.
22. Corporation shall keep the record of installed capacity Vs actual feed and the output of all Composting plant
23. Corporation shall submit an irrevocable Bank Guarantee of Rs.25 lacs to the Board within 15 days period from issuance of this authorization, which will be valid for a period of one year for operation and maintenance of the MSW facility and to adhere with MSW Rules, 2000.
24. Corporation shall implement the timely action plan for site selection, acquisition of land, treatment and processing of solid waste as per the Minutes of the Order dtd.2/4/2013 passed by Hon'ble High Court, Mumbai against the writ petition No.1740/1998.
25. The authorisation is granted as per the decision taken in CC meeting held on 03/02/2016.




 Dr. P. Anbarasan
 Member Secretary



6. When an accident occurs of any municipal solid wastes collection, segregation, storage, processing, treatment and disposal facility or landfill site or during the transportation of such wastes, the municipal authorities shall forthwith report the accident in Form-V to the Secretary In charge of the Urban Development Department in metropolitan cities and to the District Collector in all other cases.

The waste processing and disposal facilities to be setup by the Municipal Authority On their own or through an operator of a facility shall meet the specifications and Standards as specified in schedule-III and IV.

8. The ash generated shall be handled properly and shall be stored in a covered shed and disposed off to the enduser and record of it shall be maintained.
9. The gas cleaning system shall be installed with comprehensive scrubbing system and shall be analyzed monthly for parameters like PCBs, PAHs, Dioxins, Furans, H₂S, CS₂ etc.
10. The inert created during handling and processing of MSW shall be properly land filled.
11. The municipal authority will have to abide by the provisions of Municipal Solid Waste (Management & Handling) Rules, 2000.
12. The Corporation shall establish/set up and operate the facility at the earliest to comply with the rules as per implementation Schedule laid down in Schedule I.
13. Tipper and Dumper shall be avoided. Closed body bins can be used or compactor shall be used for MSW collections.
14. Segregation of MSW at source and frequency as per action plan.
15. Raw waste material shall not be dumped/stored temporary at this site.
16. All recyclable material shall be segregated at source and before receiving at disposal site.
17. Process remediates and inert material upto i.e. 25 % of the waste received for processing shall be disposed scientifically to sanitary landfill site.
18. All mitigation measures like odour, smoke, fire, dust, nuisance etc. shall be taken by the corporation.
19. Environment Management Plan and Disaster Management Plan shall be prepared and implemented by the corporation

