

ORIGINAL APPLICATION NO. 39 or 203

(Under Section 14 & 15 r/w Section 17, 18 and 20 of the National Green Tribunal Act, 2010)

IN THE MATTER OF:

RAVINDRA KUBER WALAWADE)

Occupation: Business, Aged 58 years.)

R/at 1616, Daulat Apartment. Ganeshnagar,)
Lane No. 4, Sangli 416416)

Email: walawaderk@gmail.com M: 8275030732)... APPLICANT

VERSES

1. GOVERNMENT MEDICAL COLLEGE &)

HOSPITAL, Through Dean,)

Plot No. 969/LB, Miraj Pandharpur Road, Miraj,)

Dist Sangli, Maharashtra 416 410)

Email: deangmcmiraj@yaboo.co.in)

2. STATE OF MAHARASHTRA)

Through Principal Secretary

Department of Environment and Climate Change

Mantralaya, Mumbai-400 032

Email: mah-env@nic.in

3 MAHARASHTRA POLLUTION

CONTROL BOARD

Through its Regional Officer,

Udyog Bhavan, Kolhapur-416003

Email: rokolhapur@mpcb.gov.in

4. MAHARASHTRA POLLUTION

CONTROL BOARD

Through Sub-regional Officer,

Sangli Division, Near Guest House,

Udyog Bhavan, Vishrambag. Sangli-416416

E srosangli@mpcb.gov.in

5. LD. COLLECTOR

Sangli, Sangli District

Vijaynagar Chowk, Sangli.

Maharashtra-416416

Email: collector.sangli@maharashtra.gov.in

...RESPONDENTS

MOST RESPECTFULLY SHOWETH:

An application filed behalf of the Applicant is as under

- I. The Address of the counsel of Applicant is given for the service of notices of this Application is:-

Omkar Wangikar, Advocate,

Office No. 01, Fountain Chamber.

Fountain, Fort, Mumbai 400 001

Email-id: adv omkarwangikar@gmail.com

Contact: 9890419292

- II. The present application pertains to the substantial issue of environment due to Respondent No. 1 is Government Medical College and Hospital, running without valid consent from Maharashtra Pollution Control Board, also operating the hospital without obtaining valid bio-medical waste authorization and discharging untreated waste water into the municipal corporation drain for a period of more

than fifteen years with the due knowledge and collusion of the regulatory agencies and with the permanent irreversible damage caused to the environment thus there is substantial question relating to environment, which needs to be decided by this Hon'ble Tribunal

- III. That the address of the Applicant is as given above for the service of notice of this Application
- IV. That the addresses of the Respondents are as given above for the service of notice of Application.
- V. That Present Application is being filed Under Section 14 & 15 r/w Section 17, 18, and 20 of the National Green Tribunal Act, 2010 (hereinafter, the 'NGT Act') by the Applicant, being persons interested in the protection of the environment and ecology

Affidavit – in reply

On behalf of the respondent no. 1

1. At the outset, I would like to bring the following facts to notice of this Honourable Tribunal about Government Medical College Hospital (GMCH) Miraj
2. GMC Miraj was established in July 1962 with permission to admit 30 MBBS students annually and initially Wanless Hospital (some people refer it as Mission hospital) Miraj as a teaching hospital. Later District hospital Sangli was attached with GMC Miraj as a teaching hospital. In year 2008, the management of Wanless hospital unilaterally discontinued the agreement between Govt. of Maharashtra and Wanless hospital to use it as a teaching hospital. Subsequently a hospital was started at Miraj with capacity of 120 beds. The strength of undergraduate MBBS students was increased to 100 students per year and in year 2016, it was further increased to 150 students per year and in year 2019 the strength was increased to 200 admissions per year. At present 200 MBBS admissions are done annually. Postgraduate courses in various disciplines were also started like MD Medicine, MS Surgery, MD Psychiatry, MD radio-diagnosis. The institute is also running paramedical courses like postgraduate DMLT, B Sc. in paramedical sciences (BPMT) and M Sc. Biochemistry.
3. Now GMCH Miraj is having 310 beds and daily average (Outdoor patient department) OPD (from 01 January 2023 to 30 June 2023) is 510 patients per day. The total OPD is 76518 and indoor patient (IPD) about 11628 with an average of IPD about 233. The data of patients treated for last two and half years is annexed herewith and is marked as **Exhibit – R-1**.
4. During COVID-19 pandemic, this hospital had played a major role and saved thousands of patient's life and rendered services round the clock. The hospital had provided COVID-19 vaccination to thousands of patient and had started post-COVID-19 OPD services to address the health issue after exposure to COVID-19 infection.
5. Apart from routine patients' treatment and other health related services like postmortem examination, handicapped certification, vaccination services, issue of various certificates etc., the hospital have started specialized services like obesity clinic, thyroid clinic, milk bank, blood bank and blood component etc.

Without prejudice to above, I would like to deal with the averments raised by the Applicant at seriatim.

BRIEF FACTS:

<p>1. That the present Applicant is an Indian inhabitant residing at the above-mentioned address. He is a businessman by profession and has been extensively working for protection and conservation of nature and environment.</p>	<p>With reference to Para (1), I say and submit that the contents of the para are about particulars of applicant, which is matter of record.</p>
<p>2. The Respondent No 1 is Government Medical College and Hospital at Plot No. 969/1B, Miraj Pandharpur Road. Miraj, Dist. Sangli.</p>	<p>With reference to Para (2), I say and submit that the contents of the Para are about particulars of Respondents, which is matter of record</p>
<p>3. The Respondent No. 2 is the State of Maharashtra through its Principal Secretary, Department of Environment and Climate Change. The Ministry is responsible for planning, promoting, coordinating and overseeing the implementation of environmental and forestry programs in the State of Maharashtra. The main activities undertaken by the ministry include conservation and survey of the flora and fauna of the State of Maharashtra, forests and other wilderness areas; prevention, protection of nature and environment; Control of pollution; afforestation, and land degradation mitigation.</p>	<p>With reference to Para (3), I say and submit that the contents of the Para are about particulars of Respondents, which is matter of record</p>
<p>4. That the Respondent No. 3 and 4 are the board constituted under the provision of Section 4 of the Water (Prevention and Control of Pollution) Act, 1974 The functions of Respondent No. 3 and 4 to plan comprehensive program for the prevention, control or abatement of pollution and secure executions thereof, and collect and disseminate information relating to pollution and the prevention, control or abatement.</p>	<p>With reference to Para (4), I say and submit that the contents of the Para are about particulars of Respondents, which is matter of record</p>

<p>5. That the Respondent No. 5 is Ld. Collector of Sangli District having its address as mentioned above. He is responsible for maintaining and protecting the wholesome environment.</p>	<p>With reference to Para (5), I say and submit that the contents of the Para are about particulars of Respondents, which is matter of record</p>
<p>6. The facts arising out of the present application are that the Respondent No. 1 is more than 400 bedded hospital, it is one of the biggest government hospital within Sangli District. That the Respondent No 1 is operating and running hospital without obtaining valid authorization of Maharashtra Pollution Control Board and further non-complying the various rules regarding the biomedical waste and discharging untreated waste water from the hospital into the municipal corporation drain. Then the Applicant immediately visited office of the Respondent No. 4 and explain the entire irregularities caused by the Respondent No 1, further to stop environment degradation the Applicant had filed a complaint letter dated 02.12.2022 to Respondents along with annexures herein pointed out that the Respondent No. 1 is running illegally without the permission from Maharashtra Pollution Control, also non-compliance various rules of bio-medical wastes and subsequently discharged untreated waste water into municipal corporation drain. (Copy of complaint letter dated 02.12.2022 to Respondents filed by the Applicant is annexed and marked herewith as "Annexure A")</p>	<p>The present Govt. Medical College Hospital is attached with Govt. Medical College Miraj. The proposal for underground drainage scheme and STP plant was submitted to Government of Maharashtra, Medical Education and Drugs department and accordingly the administrative approval was received on 13.02.2023 and accordingly amount of ₹ 11, 20, 56, 900 (eleven crore, twenty lakh, fifty six thousand and nine hundred rupees) is sanctioned. The Government Resolution is annexed herewith and marked as Exhibit – R-2. The work of underground drainage and setting up STP plant is to be done by the Maharashtra Jeevan Pradhikaran Sangli. Detailed project report by the Maharashtra Jeevan Pradhikaran Sangli had submitted to the Dean GMCH Miraj. The copy of abstract of said project report is annexed herewith and marked as Exhibit R-3. STP plant type S. B. R. 1.11 MLD will be established. The Executive Engineer of Maharashtra Jeevan Pradhikaran Sangli in his letter dated 17.03.2023 stated that the cost of the drainage work and STP plant is likely to increase by 40 to 45% and therefore the matter was informed to the Government of Maharashtra. A supplementary grant was requested and on 02.08.2023 a supplementary grant of ₹112056 (estimated cost rupees in thousands) was granted. The letter is annexed herewith and marked as Exhibit-R-4. Maharashtra Jeevan Pradhikaran Sangli is currently processing the tender process and the work will be started once the bidder is finalized.</p>
<p>7. That, it is mandatory to set up a Sewage Treatment Plant but the hospital has not setup STP/ETP all the untreated wastes from the hospital are directly discharging outside the premises and municipal</p>	<p>With reference to para 7, I say and submit that it is true and mandatory to setup a STP plant and for this process, the Government of Maharashtra had granted the money and the process is started by the Maharashtra Jeevan Pradhikaran Sangli</p>

<p>drain hence it has created adverse impact on the surrounding environment and it is very dangerous for river biodiversity, human and animals.</p>	
<p>8 Further, the Respondent No 4 had taken cognizance of the complaint of the Applicant based on that had visited the hospital of the Respondent No. 1 on dated 05.12.2022 and issued letter regarding the non-compliance on dated 12.12.2022 to the Respondent No. 1. As per the said letter during the joint inspection the Respondent No. 4 have observed the various non-compliances as follows:</p> <p>i) During the visit 315 bedded multispecialty hospital found in operation</p> <p>ii) Obtained membership of CBMWTSDF for only 120 beds and beds found occupied 315 beds.</p> <p>iii) You have failed to obtain prior Combined Consent and Bio Medical Waste Authorization from Maharashtra Pollution Control Board and violating the provisions of Bio Medical Waste Management Rules, 2016.</p> <p>iv) You have failed to provide the combined treatment plant and found that untreated effluent found discharged into corporation sewer line.</p> <p>v) Arrangement is not available to assess the quantity of water consumption.</p> <p>vi) Colour coded bags provided for segregation (source). But, during the visit it was observed that back colour coded bags for the storage of Municipal Solid Waste found less.</p>	<p>With reference to para 8, I say and submit that for cleanliness and disposal of bio-medical waste outsourcing, a tender was floated and Ms. Sons House Mumbai was the lowest bidder. Accordingly the Medical Education and Drugs department Govt. of Maharashtra has sanctioned Ms. Sons House Mumbai for outsourcing the cleanliness and disposal of bio-medical waste in Govt. Resolution no. MED-2023/P.K.111/Admin-2 dated 06.04.2023. The GR is annexed herewith and marked as <u>Exhibit-R-5</u>. Accordingly a work order was issued to Ms. Sons House Mumbai and an agreement was made between the Dean GMC Miraj and Ms. Sons House Mumbai. The work order and agreement are collectively annexed herewith and marked as <u>Exhibit-R-6</u>. Now adequate numbers of colour coded bags are made available. Separate storage room is made available with bio-medical waste symbol. Every department is instructed to segregate the bio-medical waste at the source. Regular training to all employees will be given by Department of Microbiology on periodic time. The online information to MPCB is regularly provided. The GMCH will take due care in this regard and the rules laid down by MPCB and Bio-Medical Waste Management, Rules 2016 will be meticulously followed.</p>

<p>vii) Separate storage room provided for final bio medical waste storage. Not provided bio hazard symbol</p> <p>viii) Not submitted online bio medical waste annual report.</p> <p>ix) Record regarding training given to the staff not found maintained.</p> <p>x) Source of water consumption from ground water, but you have failed to obtain permission from concern department i.e. Central Ground Water Authority/ Board</p> <p>xi) Segregation of colour coded bags found unscientific in some sections like ICTS section etc.</p> <p>Hence, from above noncompliance, it indicates that the Respondent No. 1 is negligent attitude towards implementation and management as per Bio-Medical Waste Management, Rules 2016 and other environmental rules. (Copy of letter dated 12.12.2022 issued by Respondent No. 4 is annexed and marked herewith as "Annexure B")</p>	
<p>9. Further, the Respondent No. 1 failed comply the non-compliances hence, the Respondent No. 4 issued show cause notice dated 29.12.2022 to Respondent No. 1 for violation of Environment Protection Act, 1986 and Bio-Medical Waste (M&H) Rules, 2016 stated following non-compliances.</p> <p>i) 315 Bedded Multi specialty Hospital found in operation.</p> <p>ii) You have not obtained membership of CBMWTSDf for 315 beds membership of CBMWTSDf only for 120 Beds obtained and</p>	<p>With reference to para 9, I say and submit that, the process of underground drainage and STP plant is in process. The disposal of Bio-medical waste is outsourced. The process of obtaining permission from MPCB is in process. The GMCH will take due care in this regard and the rules laid down by MPCB and Bio-Medical Waste Management, Rules 2016 will be meticulously followed.</p>

found occupied 315 beds.

iii) You have not obtained Registration for 315 beds. Hospital was registered on 1995 for 260 Beds

iv) You have not provided Effluent Treatment Plant (ETP) STP As untreated effluent is being discharged into corporation sewer line.

v) You have not provided colour coded bags as per specifications of BMW Rules. Colour coded bags provided for segregation (Source) Black colour coded (MSW) found less. Hospital authority shall segregate and make arrangement for the scientific storage of Municipal Solid Waste.

vi) You have not provided Biohazard symbol on colour coded bags provided for segregation.

vii) You have not submitted Bio medical waste annual report.

viii) You have not deposited the Consent & BMW fees. Earlier Instructed to the hospital authority to submit the fees Rs. 6,25,000/- but, Hospital authority requested to exempt them as the hospital is a Government Hospital

ix) You have not provided scientific provision for storages of BMW & non-hazardous waste.

x) You have not submitted reply to Warning Notice of SRO Sangli.

Hence above Show Cause notice it is clear that the Respondent No 1 is not serious about compliance of Bio Medical Waste (M&H) Rule knowingly and will full operating his HCE and it causing adverse effect on the human health and

<p>surrounding environment (Copy of Show Cause Notice dated 29.12.2022 issued by Respondent No. 3 is annexed and marked herewith as "Annexure C")</p>	
<p>10. That till date the Respondent No. 1 failed to carried out the non-compliances mentioned in the Show Cause Notice dated 29, 12.2022 issued by the Respondent No. 3 and also failed give any reply to the said notice.</p>	<p>With reference to para (10) I say and submit that the compliance to set-up STP project is in progress. For the same administrative approval from Government of Maharashtra is received and accordingly fund provision is made and the Maharashtra Jeevan Pradhikaran Sangli is in process of floating the tender for the work.</p>
<p>11. That further on the basis of complaint filed by the Applicant the Respondent No 2 issued a letter dated 12.01 2023 to the Member Secretary of Maharashtra Pollution Control Board, Mumbai wherein it is stated that, to take appropriate action should be taken related to the said complaint, but till date such action has not been taken. (Copy of letter dated 12.01.2023 issued by Respondent No. 2 is annexed and marked herewith as "Annexure D")</p>	<p>With reference to para (11) I say and submit that the compliance to set-up STP project is in progress. For the same administrative approval from Government of Maharashtra is received and accordingly fund provision is made and the Maharashtra Jeevan Pradhikaran Sangli is in process of floating the tender for the work.</p>
<p>12. That the Respondent No. 3 and 4 several times issued the various notices to the Respondent No. 1 but till date the Respondent No. 1 failed to carried out the non-compliances mentioned in the notices (Copy of warning notice dated 23.06.2021 issued by Respondent No. 4 is annexed and marked herewith as "Annexure E")</p>	<p>With reference to para (12) I say and submit that the compliance to set-up STP project is in progress. For the same administrative approval from Government of Maharashtra is received and accordingly fund provision is made and the Maharashtra Jeevan Pradhikaran Sangli is in process of floating the tender for the work.</p>
<p>13. That the Respondents have not taken any cognizance of the complaint of the Applicant till now the said hospital of Respondent No. 1 is in operation.</p> <p>GROUNDS:</p> <p>The Applicant is constrained to prefer the present Application and approach this Hon'ble Tribunal on following amongst other grounds:</p>	<p>With reference to para 13, I say and submit that GMCH Miraj is a teaching institute and provide healthcare services to Sangli and nearby district including people from North part of Karnataka. All health services are provided on round the clock basis. People who are below poverty lines (BPL) and senior citizens are treated free of cost and other people are treated in subsidized rate. This is a Government hospital and teaching institute. It is assured to the honourable Tribunal that due care in this regard and the rules lay down by MPCB and Bio-Medical Waste Management,</p>

A) The Respondent No. 1 herein is clearly violating the environmental laws and operating the said hospital without having necessary consent and permission from the respective authorities. Also violated Bio-Medical Waste (Management and Handling) Rules, 2016, as well as Water (Prevention and Control of Pollution) Act, 1981.

B) Due to illegal dumping of the untreated effluents from hospital of Respondent No 1 the permanent, irreversible damage caused to the environment and ecology of the river Krishna

C) The Respondent No. 1 has shown its complete inaction on their part for the said issue and insensitive towards environment.

D) The inaction on the part of the Respondents clearly depicts that casual and lethargic approach towards the duty which has been embedded upon them to save guards the interest of the environment.

E) That the Respondent No. 1 has not setup any STP or ETP in the industry hence the Respondent No. 1 discharging untreated effluents in the municipal drain which flows into river Krishna for a period of more than fifteen years with the due knowledge and collusion of the regulatory agencies and with the permanent, irreversible damage caused to the environment and ecology of the river Krishna system.

F) It's been more than fifteen years the Respondent No 1 illegally running the hospital without the permission from concerned government authorities till now.

Rules 2016 will be meticulously followed. Furthermore, 1) Dry and wet waste is collected, segregated at source and transported by the outsourcing agency on regular basis; 2) The bio-medical like including dressings, IV sets, gloves, syringes, blood bags, protective gowns, operated parts, infected material etc. are separately collected, transported and incinerated by the outsourcing agency; 3) The linen like clothing, bed sheets, surgical gowns are treated with disinfectant and then washed in the laundry; and 4) the washrooms in wards, ICU and casualty and corridors and postmortem room are dry and wet cleaned with disinfectant solution on routine basis. From the above facts, it is clear that the above dangerous infected waste (particularly mentioned at 2 and 3) is not at all drained in the municipal corporation drainage line.

<p>G) The Respondent No. 3 ought to have acted in accordance to the ratio laid down by the Hon'ble Principal Bench in the case of Wassan Singh State of Punjab and closed the unit as the same was operating without consent.</p>	
<p>14. The Applicant has no other efficacious remedy except to file the present application and the relief as prayed for herein be granted.</p>	<p>With reference to para 14, I say and submit that it is a legal submission which is matter of record</p>
<p>15. The Applicant has not filed any other application with regards to the subject matter of this application either in this Hon'ble Tribunal or in other Court or in Hon'ble Supreme Court of India.</p>	<p>With reference to para 15, I say and submit that it is a legal submission which is matter of record</p>
<p>16. The Applicant has paid the requisite court fee by way of online payment on this application.</p>	<p>With reference to para 16, I say and submit that it is a legal submission which is matter of record</p>
<p>17. <u>LIMITATION</u> Respectfully submitted that as per the Section 14 and 15 of the National Green Tribunal Act, 2010 the said original application is filed within limitation. That first cause of action for filling the present Application arose when the Applicant filed a complaint via letter dated 02.12.2022 wherein it has mentioned that the Respondent No 1 is operating hospital without the consent. The cause of action again arose when Respondent No. 3 issued Show Cause Notice dated 29.12.2022 to the Respondent No. 1 Due the non-compliance of Show Cause Notice dated 29.12.2022 it is continuous cause of action. Further on dated 12:01 2023 the Respondent No 2 issued a letter to Member Secretary of Maharashtra Pollution Control Board, Mumbai but till date no action has been initiated. The cause is arising day by day on account of inaction on the part of Respondents wherein the Respondent No. 1 is making day to day violation of environment laws by way of polluting</p>	<p>With reference to para 17, I say and submit that it is a legal submission which is matter of record</p>

environment.	
<p style="text-align: center;"><u>PRAYER</u></p> <p>The Applicant humbly prays before this Hon'ble that:</p> <p>I. That Hon'ble Tribunal be pleased to direct the Respondent No 1 to comply the non-compliances in pursuance of its letter dated 12.12.2022 issued by the Respondent No. 4 and Show Cause Notice dated 29.12.2022 issued by the Respondent No. 3 on immediate basis and restitution of the environment</p> <p>II. That Hon'ble Tribunal be pleased to direct the Respondent No. 3 and 4 to shut down operations of hospital of Respondent No 1 as they are operating the hospital without valid consent and on failure of non-compliance of letter dated 12.12. 2022 issued by the Respondent No 4 and Show Cause Notice dated 29.12. 2022 issued by the Respondent No. 3.</p> <p>III. That Hon'ble Tribunal be pleased to order appoint an expert committee consisting member of Respondent No 2 to 5 to quantify the environmental losses done by the Respondent No 1 by its activities carried out in by the hospital which may be recovered from Respondent No 1.</p> <p>IV That Hon'ble Tribunal be pleased to direct the Respondent No. 2 to take appropriate action against the officers Respondent No. 3 and 4 for their gross dereliction duty keeping check on non-compliances and for failure to the take appropriate action against such non-compliances of the Respondent No. 1.</p>	<p>In view of health services rendered by the institute round the clock to the mankind and taking into consideration above mentioned facts and circumstances, it is most humbly prayed that the present O.A. may kindly be dismissed. Hence this affidavit.</p>

V. Cost of appropriate penalty for environmental pollution may kindly be directed to Respondent No 1

VI. That Hon'ble Tribunal be pleased to direct issue notice to all the Respondents;

VII. Cost of the present Application may kindly be awarded to the Applicant.

VIII. Any other reliefs as this Hon'ble Tribunal deems fit in the interest of the protection of environment. And for this act of kindness and justice the Applicant shall ever remain obliged

Verification

I, P.R. SANDEEP B. SAIPUTE..... do hereby state on solemn affirmation those contents in para numbers 1 to 12 of the affidavit are true to the best of my knowledge and information derived from the records and files maintained in the office and I verify the same to be true. I say that I have not suppressed any material facts from this Honourable Tribunal.

Solemnly affirmed at Mumbai

This *12/12/2012*

Saipute
Deponent

Before me