

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 44 OF 2022

ARYAVAT FOUNDATION

...APPLICANT

VERSUS

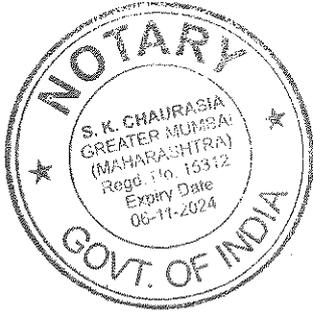
M/S. LOTE PARSHURAM ENVIRONMENT PROTECTION
CO-OPERATIVE SOCIETY LTD. & ORS.

...RESPONDENTS

AFFIDAVIT IN REPLY ON BEHALF OF THE
MAHARASHTRA INDUSTRIAL DEVELOPMENT
CORPORATION

I, Ravikiran Sitaram Pimpale, The Deputy Engineer, MIDC, Project Sub-Division Chiplun, of the Maharashtra Industrial Development Corporation having my office at The Office of Deputy Engineer, Plot no – OS 5, Kherdi Industrial Area, Tal. Chiplun, Dist. Ratnagiri, do hereby state on solemn affirmation as under:

1. I say that the Maharashtra Industrial Development Corporation (hereinafter referred to as “MIDC” for the sake of brevity) has been established under the provisions of the Maharashtra Industrial Development Act, 1961 (hereinafter referred to as “MID Act, 1961” for the sake of brevity). The MIDC has been established for carrying out planned development of Industries in the State of Maharashtra. I say that the Maharashtra Pollution Control



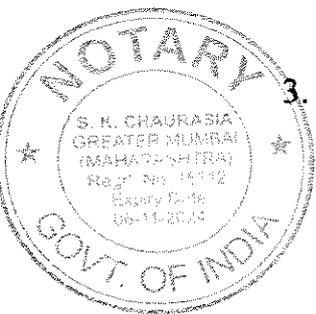
Board (hereinafter referred to as "MPCB" for the sake of brevity) implements Central Legislation (i.e.) The Water (Prevention & Control of Pollution) Act, 1974, The Air (Prevention and Control of Pollution) Act, 1981 and the Environment Protection Act, 1986 and monitors the pollution of various industries and also takes steps to check the pollution if any being conducted by Industries.

2. **LOTE PARSHURAM INDUSTRIAL AREA:**

MIDC has developed Lote Parshuram Industrial Area in the year 1986. This industrial area has chemical units. As a facilitator MIDC has provided all the basic infrastructure facilities such as road, water supply scheme, effluent collection and disposal scheme, street lights etc. The MoEFCC Guidelines have clearly defined the roles of the Lote Parshuram Environment Protection Co-operative Society Ltd. at Point No.4, State Government/ SPCB at Point No.5, and Central Government / CPCB at Point No.6. The MIDC was facilitator at all the times MIDC has a given capital cost contribution as per the summary given.

3. **MIDC CONTRIBUTION AND DETAILS:**

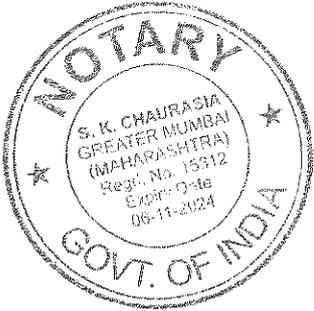
<u>Sr. No.</u>	<u>MIDC Contribution</u>	<u>Details</u>
1)	The land was given for CETP and its upgradation at a concessional rate	Plot P-30, of 11146.00m ² Area, at Rs.1.00 per m ²
2)	Set up of CETP up to 4.5 MLD	Year 2002



3)	Expansion of CETP from 4.5 MLD to 10 MLD	Year 2018
4)	Design, build and commissioning including rehabilitation & up-gradation on DC basis of the 10 MLD CETP.	Rs. 26.02 Crore.
a)	ASIDE / Govt. Of India	Rs. 10.00 Crore paid
b)	Implementing Agency(MIDC)	Rs. 13.52 Crore paid
c)	Lote Parshuram Environment Protection Co-operative Society Ltd. member contribution	Rs. 2.50 Crore Paid

3.1) The CETP is operated by specific dedicated SPV "Lote Parshuram Environment Protection Co-operative Society Ltd." (Respondent No. 1) MIDC has facilitated the collection of payments from the member industries of Lote Parshuram Environment Protection Co-operative Society Ltd. and payment is made to CETP operator.

3.2) Vide Communication dated 06.03.2017, MPCB issued direction under Section 33A of the Water (Prevention & Control of Pollution) Act, 1974 to MIDC to operate and maintain the CETP of Lote Parshuram Environment Protection Co-operative Society Ltd. MIDC does not own the Lote Parshuram Environment Protection Co-operative Society Ltd. even today. All the assets belong to Lote Parshuram Environment Protection Co-operative Society Ltd. only. The



effluent quality is to be ascertained and checked by the Lote Parshuram Environment Protection Co-operative Society Ltd. at their inlet. MIDC has no control over that. It may be noted that MIDC is not generating the effluent but the same is generated by member industries of Lote Parshuram Environment Protection Co-operative Society Ltd.

- 3.3) I say 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.
- 3.4) The effluent is collected and analysed by Lote Parshuram Environment Protection Co-operative Society 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.
- 3.5) MPCB has recently vide communication dated 29.03.2023 renewed the Consent to Operate to Lote Parshuram Environment Protection Co-operative Society Ltd. with a total capacity of 10 MLD. The Consent is granted to the "occupier" and Lote Parshuram Environment Protection Co-operative Society Ltd. is the occupier, admittedly as per their own application for the Consent to Operate.



- 3.6) An agency has been appointed for operating CETP of Lote Parshuram Environment Protection Co-operative Society Ltd. and its Operation and Maintenance, are as per the agreed terms. The role of MIDC is clearly mentioned in that.
- 3.7) I say 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 from member industries by MIDC are passed on to Lote Parshuram Environment Protection Co-operative Society Ltd. and the agency appointed for operation & maintenance of CETP.
- 3.8) I say that MIDC does not generate any effluent. Therefore, MIDC has not applied for Consent to Operate under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974. The staff appointed by Lote Parshuram Environment Protection Co-operative Society Ltd. is continued by the CETP operator.
- 3.9) The MPCB has issued the directions under Section 33A to MIDC to facilitate the operation and maintenance of CETP. MIDC is doing that as per the directions of MPCB. Since, MIDC does not have special expertise in the field of effluent treatment,



environment and CETP operation and maintenance, the operation and maintenance of CETP of Lote Parshuram Environment Protection Co-operative Society Ltd. is going on through the expert agency M/s. Aquachem Enviro Engineers Pvt. Ltd., Regd. Office at 5th & 6th floor , Sun Vision Classic, Hanuman Road, vile Parle (E), Mumbai- 400 057.

3.10) The Lote Parshuram Environment Protection Co-operative Society 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 Lote Parshuram Environment Protection Co-operative Society Ltd. would function more effectively.

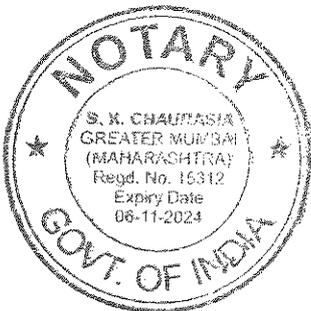
3.11) The control on raw effluent quality admitted is with Lote Parshuram Environment Protection Co-operative Society Ltd. The effluent being admitted is monitored by Lote Parshuram Environment Protection Co-operative Society Ltd. and MPCB, independently. MIDC has no control over this.

3.12) The shock loads due to highly polluted effluent beyond the inlet standards, if not controlled by the members of Lote Parshuram Environment Protection Co-operative Society Ltd. then it will upset the biological process in the CETP.



4. **EFFLUENT TREATMENT IS THE STRICT AND ABSOLUTE RESPONSIBILITY OF POLLUTERS :**

- 4.1) The effluent is generated by the Member industries of CETP. The Small Scale Industries were finding it uneconomical to install a full-fledged ETP. Hence for such SSI, a CETP has been provided.
- 4.2) The role of MIDC is that of the facilitator. After expiry of central assistance which was 10.00 Crore, MIDC is providing financial assistance to the extent of 13.52 crore & the remaining 2.5 crore is to be raised by the Lote Parshuram Environment Protection Co-operative Society Ltd. and member industries.
- 4.3) The Lote Parshuram Environment Protection Co-operative Society Ltd. is the SPV and is the sole responsible agency for the effective treatment of the effluent collected.
- 4.4) If this Lote Parshuram Environment Protection Co-operative Society Ltd. has to function effectively, the member industries will have to limit the effluent quality sent to CETP of Lote Parshuram Environment Protection Co-operative Society Ltd. as per the conditions of the Consent and design of CETP inlet criteria. The effluent quality is monitored by Lote Parshuram Environment Protection Co-operative Society Ltd. before admitting their effluent to the

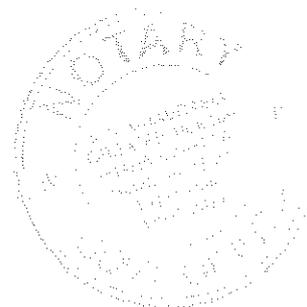


CETP. Lote Parshuram Environment Protection Co-operative Society Ltd. and MPCB know the defaulter industries. Lote Parshuram Environment Protection Co-operative Society Ltd. ought to have stopped the effluent from such defaulting industries which do not meet inlet criteria. Further, they ought to have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

- 4.5) The CETP is designed to accept the effluent with COD up to 2000 mg/L whereas the COD observed in the inlet of CETP on certain occasions was more than 2000 mg/L.
- 4.6) As such the strict and absolute responsibility will be that of Member Industries and Lote Parshuram Environment Protection Co-operative Society Ltd., who generate the wastewater/effluent.

5. **ROLE OF MPCB:**

- 5.1) 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.



5.2) The Water (Prevention and Control of Pollution) Act 1974 has cast duty and functions on SPCB under Section 17 of the Act and so also under Section 30. MPCB has the statutory functions u/s.17. If MPCB feels necessary, it has the power to obtain information under Section 20, power to take samples under Section 21, powers of entry and inspection under Section 23, Power to carry out certain works under Section 30. None of these powers are available with the MIDC.

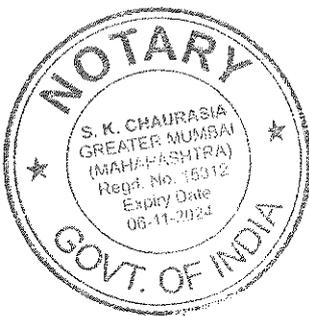
5.3) MPCB should guide the Lote Parshuram Environment Protection Co-operative Society Ltd. as per the specific functions u/s. 17(f) and subsequent sub-sections. This function and expertise are available with the MPCB; and not with the MIDC.

6. **CONSENTED POLLUTION LOAD:**

6.1) Currently, the total effluent generated itself has decreased substantially. As such, even when the upgraded CETP is ready to handle the capacity/flow of 10 MLD in total; the actual flow is 3.0 MLD.

6.2) The absolute pollution load in terms of kg/day also has therefore decreased due to reduced volume.

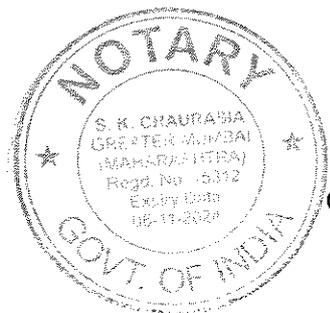
6.3) For proper disposal of treated effluent from Lote Parshuram Environment Protection Co-operative Society Ltd., 630 mm dia(6kg/cm²) HDPE effluent



disposal pipeline of length 6.137 km laid below the bed of Sonpatra river in the village limits of Ghanekhunt and Kotawali village. This treated effluent disposal pipeline further extended upto a length of 1.359 km in the estuary of Vashisthi & Jagbudiriver in Karbavane creek portion upto the disposal point suggested by National Institute of Oceanography (NIO). This treated effluent disposal pipeline is gravity line provided with 10 Air release valves of 150 mm diameter fixed at prominent locations. The effluent is treated as per norms and parameter set by MPCB & CPCB and then discharged to Karbavane creek twice a day for the period of 6 hrs. each depending upon daily low tide period monitored by the person employed at Karbavane creek.

6.4) 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.

6.5) The maintenance and operation of CETP is a continuous process and any breakdown or leakage is



attended on priority basis. Even any leakages from the pipeline are immediately attended by the expert agency appointed for operation and maintenance of the CETP by MIDC. The instances referred to in the order dated 17.04.2023 have already been rectified immediately on 03.10.2022.

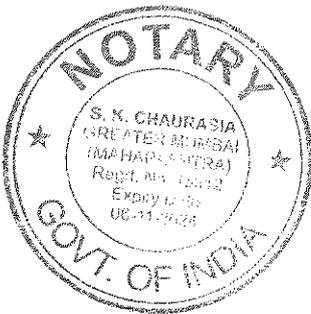
7. **STRICT AND ABSOLUTE RESPONSIBILITY FOR FAILURE TO TREAT EFFLUENT:**

7.1) The strict and absolute responsibility to treat the generated effluent to the standards that are laid down in the Consent to Operate is of the Member Industries and Lote Parshuram Environment Protection Co-operative Society 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.

7.2) Lote Parshuram Environment Protection Co-operative Society Ltd. is dutybound to be vigilant, in not allowing the effluent from such defaulting industries to CETP.

8. **VIOLATION OBSERVED AT INLET TO CETP OF RAW EFFLUENT QUALITY:**

8.1) MPCB has issued renewal of the 'Consent to Operate' dated 29.03.2023 valid up to 13.12.2028. On Page



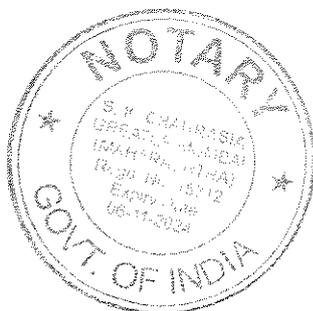
3/12 of the Consent, MPCB has prescribed the treated effluent standards.

8.2) MPCB has also issued the raw effluent standards that can be admitted to Lote Parshuram Environment Protection Co-operative Society Ltd. If these standards are not met, the treated effluent shall not be as per the standards.

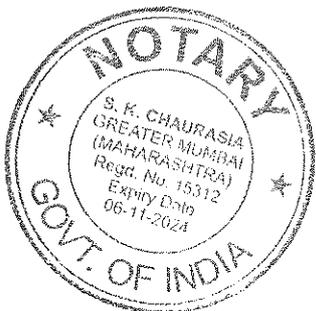
8.3) The BOD/COD are the basic measures for this. The CETP is designed to accept and treat the COD of levels up to 2000 mg/L, however, if the Member industries are letting out much higher COD concentrations, then the CETP can't function with such an exceedance of the levels.

8.4) MIDC had no control over it. The effluent is let out by Member industries. It is tested by MPCB and Lote Parshuram Environment Protection Co-operative Society Ltd., as part of their duty and function and the responsibility. 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.

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

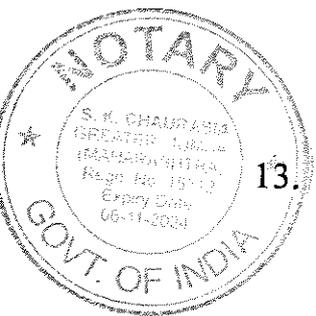


- 9.1) MIDC would be the sufferer when the raw effluent is not meeting the standards. The CETP can't be closed for fear of further worsening the scenario on the environmental front.
- 9.2) The absolute financial advantage in not meeting the raw effluent treated standards, as per the Consent condition, is to the Member Industries. Effluent, let out without treatment, will benefit the Member industries and Lote Parshuram Environment Protection Co-operative Society 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.
- 9.3) Lote Parshuram Environment Protection Co-operative Society Ltd. should share the information of the defaulting industries. As such, the environmental penalty shall be borne by the Member Industries of Lote Parshuram Environment Protection Co-operative Society Ltd.
- 9.4) MIDC did not have statutory duty or function or expertise to design or operate the CETP. But even



then, when Member Industries and Lote Parshuram Environment Protection Co-operative Society Ltd. failed in their assigned duties, MIDC was compelled to take this over, as a third party, as per the directions of MPCB issued under Section 33A.

10. MIDC states that it has no special technical or scientific knowledge of operation and maintenance of CETP and depends upon outside agency for the said work. There is no propriety in continuing this futile exercise, without the support of Member Industries, Lote Parshuram Environment Protection Co-operative Society Ltd.
11. 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 under Section 30 of the Water (Prevention and Control of Pollution) Act 1974, since MPCB has issued direction under Section 33A of the water act to MIDC. However, where the role of MIDC will be facilitator only.
12. MPCB does have a lawful mandate under function under Section 17 and statutory powers to do this, and recover the cost of the same from Lote Parshuram Environment Protection Co-operative Society Ltd. and its Member Industries.
13. In light of the above, the Environment Damage cost which shall be imposed on the Lote Parshuram Environment



Protection Co-operative Society Ltd. should be recovered from their Member Industries only, and should be deposited with the MPCB to be utilised for the treatment of effluent in CETP and as a part of the balance capital cost contribution of Lote Parshuram Environment Protection Co-operative Society Ltd. member industries to be paid to MIDC.

Solemnly affirmed at Mumbai)

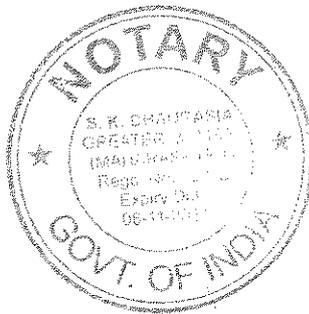
On this 07th day of July, 2023)

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**For Navdeep Vora & Associates
Advocates for Respondent No. 4**

[Handwritten Signature]

**Deputy Engineer
MIDC Project Sub-Division
Chiptun**

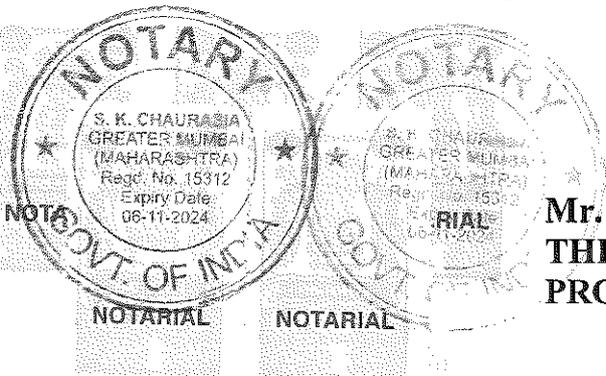


VERIFICATION

I, Ravikiran Sitaram Pimpale, The Deputy Engineer, MIDC, Project Sub-Division Chiplun, of the Maharashtra Industrial Development Corporation and having my office address at The Office of Deputy Engineer, Plot no – OS 5, Kherdi Industrial Area, Tal. Chiplun, Dist. Ratnagiri, duly authorized to swear and attest this Application by Circular dated 17th June, 2002, do hereby state on solemn affirmation, that what is stated in paragraph nos. 01 to 13 is true to my own knowledge based on information derived by me from the official records and I believe to be true and correct.

Solemnly affirmed at Mumbai)

Dated this 7th day of July, 2023)



Identified by me

ma

For Navdeep Vora & Associates
Advocates for Respondent No. 4
 Office No. 32, 2nd Floor,
 Building No. 105,
 Mumbai Samachar Marg,
 Fort, Mumbai - 400 001

[Signature]

**Deputy Engineer,
 MIDC Project Sub-Division
 Chiplun**

**Mr. RAVIKIRAN SITARAM PIMPALE,
 THE DEPUTY ENGINEER, MIDC,
 PROJECT SUB-DIVISION CHIPLUN**

(For M. I. D. C.)
 [Respondent No. 4]

BEFORE ME

[Signature] 7/7/23
S. K. CHAURASIA
 B.COM., LL.B.
 ADVOCATE HIGH COURT
 NOTARY GOVT. OF INDIA
 158/160 CHAURASIA MANSION,
 3RD FLOOR, R. NO. 12/13,
 SANT SENA MAHARAJ MARG,
 MUMBAI - 400 004

NOTED & REGISTERED	
Before me	Sr. 576
	Date: 7/7/23
	Regd. Book No.: 3
	Page No.: 62

07 JUL 2023