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N/W

BEFORE HONOURABLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

Application No. 19/2020 (WZ)

Sayed Mohammed Sabir Usman Applicant

VERSUS

Union of India & Ors Respondents

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

I, R. A. Rajput, Aged : Adult, the Regional Officer of the Maharashtra Pollution Control Board at Thane, having my office address at Plot No.P-30, 5th Floor, Office Complex Building, Near Mulund Checknaka, Thane-400 605, do hereby state on solemn affirmation as under :-

1. I have gone through the original application and perused all the records with regards to this matter. Based on the records, I am filing this affidavit in reply as hereunder.
2. I say and submit that the Respondent No.8-M/s. ANK Pharma Pvt. Ltd. (Industry) is located at Plot No. M-2, MIDC Area, Tarapur, Boisar (West), District-Palghar. The Respondent Board has granted 1st Consent to Operate under RED SSI Category, for manufacturing of pharma products.
3. I say and submit that the Respondent Board has granted 'Consent to Establish' to the Respondent No.8-inudstry on 24.03.2008 and Respondent Industry has applied for 'Consent to Operate' on 21.10.2018.



4. I say and submit that the Respondent No.8-Industry has obtained the 'Environmental Clearance' (EC) on 07.06.2011. Thereafter, Environmental Clearance was revalidated on 20.12.2018.
5. I say and submit that the Respondent No.8-Industry has applied for 'Consent to Operate' by submitting requisite consent fees and accordingly, the Respondent Board has granted 1st Consent to Operate to the Respondent No.8-Industry dated 02.01.2020 under Section 26 of the Water (Prevention and Control of Pollution) Act 1974, under Section 21 of the Air (Prevention and Control of Pollution) Act 1981 and Authorization under 'Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016, which is valid up to 30.11.2024. The entire processing of the Consent application is online and the said consent was granted by following due procedure.

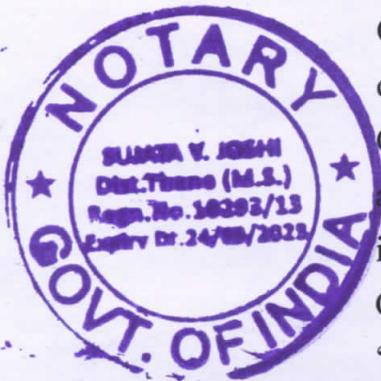
I say and submit that, all the site visits and processing of the application was done by the designated officers, who were in-charge of that area, with proper authority and entrusted responsibility by the Respondent-Board.

7. I say and submit that, the purpose of Respondent Board to carry out inspection is to verify the installation of plant & machinery including pollution control equipments. During the processing of the application, the industry site was inspected by the designated Officer of the Respondent Board on 22.05.2019 and on the basis of visit report with the appropriate observations and remarks, the Respondent Board has issued Show Cause Notice to the Respondent No.8-Industry vide letter dated 04.07.2019 towards non-completion of installation work of plant & machinery etc. In response to the show cause notice, the Respondent No.8-Industry has submitted its reply vide letter dated 08.07.2019 and informed that they have completed the installation work of plant & machinery including ZLD system. In order to verify the reply submitted by the Respondent No.8-Industry,



the officials of the Respondent-Board at Tarapur visited to the site on 10.10.2019 and observed that the installation of plant & machinery is completed. Based on the observations made during the visit and submissions made regarding provision of ZLD system, the Respondent Board has granted Consent to Operate dated 02.01.2020 to the Respondent No.8-Industry, with certain terms & conditions.

8. I say and submit that, the Respondent No.3 Board has processed the application for 'Consent to Operate' without any undue haste or neglecting to seek clarifications on all environmental aspects.
9. I say and submit that, all the officials of the Respondent Board have processed the consent applications as per their respective geographical area of jurisdiction and as per the powers delegated by the Respondent Board. In this particular case, the matter was not dealt by anyone else other than to whom it was assigned, formally and officially.
10. It is submitted that the Hon'ble NGT, Principal Bench, New Delhi in Original Application No.1038/2018 -In the matter of – News Item published in "The Asian Age" authored by Sanjay Kaw, has passed Orders dated 10.07.2019 and 23.08.2019 and directed that no further industrial activities or expansion be allowed with regard to 'Red' and 'Orange' category units till the said areas are brought within the prescribed parameters or till carrying capacity of area is assessed or new units or expansion is found viable having regard to the carrying capacity of the area and environmental norms. In the meantime, the Central Pollution Control Board vide letter dated 25.10.2019 has communicated Mechanism for Environmental Management of Critically and Severally Polluted Areas and consideration of activities/projects in CPA / SPA areas. In the said letter, the CPCB informed to impose stringent conditions for grant of Environmental Clearance for new and expansion activities listed in 'RED and 'Orange' categories of industries located in CPA / SPA areas. In the



aforesaid matter, the Hon'ble Supreme Court of India stayed the operation of the impugned order passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi vide order dated 18.03.2020.

11. I say and submit that on the basis of the Mechanism communicated by the Central Pollution Control Board, the Respondent Board has granted Consent to Operate to the Respondent No.8-Industry with stringent conditions.
12. I say and submit that the Respondent No.8-Industry has total estimated trade effluent of 1.05 m³/day. The domestics sewage quantity was 1.0 m³/day, which was to be treated in septic tank and soak pit (within the factory premises).
13. I say and submit that the Respondent No.8-Industry is SSI unit with estimated trade effluent of only 1.05 m³/day. Industry had 4000m² plot area. Industry has installed Effluent Treatment Plant comprising of Primary (Collection tank, Flash mixer, Primary Clarifier/Primary Settling Tank), Tertiary (Pressure sand filter, Activated carbon filter), Advanced treatment (Distillation column). The 100% fully treated effluent was to be recycled, reused so as to achieve Zero Liquid Discharge (ZLD).
14. I say and submit that the Respondent No.8-industry having one Boiler Stack and one D.G. set stack (for stand-by purposes). The expected emissions is Particulate Matter, for which the emission standards were prescribed in the Consent.
15. I say and submit that the Respondent-MPCB has adopted Central Inspection System for periodically visiting the industry on randomize basis and for carrying out the surprise inspection. The frequency of randomize visit to the industry is based on the pollution potential (Red/ Orange/ Green) and scale of industry (Large/ Medium / Small).



The frequency is higher for Red/Large Scale industries and lower for Green/Small Scale industries. In the present case, the 'Consent to Operate' was granted only on the 02.01.2020. The accident took place on 11.01.2020 i.e. within 10 days after issuance of the 'Consent to Operate' OR even before the first scheduled inspection visit would have taken place.

16. I say and submit the officials of the Respondent Board at Tarapur immediately visited to the site of Respondent No.8-Industry on 12.01.2020 for inspection and observed that a particular building was used as the Office Building. However, subsequently it was found that the Respondent No.8-Industry has installed reactor and centrifuge without permission of the Respondent Board as well as without obtaining permission from Directorate of Industrial Safety and Health (DISH).
17. I say and submit that the accident took place due to any reason is very unfortunate incidence. It is submitted that this Hon'ble Tribunal vide order dated 02.07.2020 constituted a Committee consisting of Collector, Palghar and Maharashtra Pollution Control Board and directed to submit factual & Action Taken Report. Accordingly, the Committee has submitted its report on 09.11.2020 before this Hon'ble Tribunal. The Committee recommended that without obtaining necessary statutory compliances, no permission to restart industrial unit shall be granted.
18. I say and submit that the Respondent No.3-MPCB has completed the site visit and inspection. The accident is not due to water / air pollution or any environmental issue OR lapses in processing of the Consent. At present, the above industry is closed.
19. In view of the above, it is submitted that the Respondent Board has granted consent by following due procedure and as per delegation of powers assigned by the Respondent Board. Hence, the allegations

made by the Applicant are baseless and misleading to this Hon'ble Tribunal. The Respondent Board has always been followed and complied with the directions issued by this Hon'ble Tribunal in its true letter and spirit. The Respondent Board have always held this Hon'ble Tribunal at highest regard and respect the orders and directions passed by this Hon'ble Tribunal from time to time.

Solemnly affirmed on this 1st Day of November, 2021.

For & on behalf of MPC Board,

(R.A. Rajput)

Regional Officer-Thane



- 3 NOV 2021

NOTARISED



SUJATA V. JOSHI
ADVOCATE & NOTARY
101/102, Vishal Bldg., Station Road,
Kalwa (W), Thane-400 605.

NOTED & REGISTERED
Sr. No. 15162/2021

