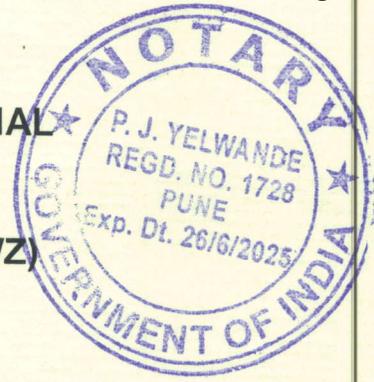


BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 56/2021 (WZ)



IN THE MATTER OF: -

TOUSIF BAGNIKAR

APPLICANT

VERSUS

SHREE BALAJI
ANODIZING & ORS.

RESPONDENT(S)

Reply Affidavit on behalf of Respondent No. 3, Central Pollution Control Board (CPCB).

I, Shri Bharat Kumar Sharma, S/o Shri. D.P Vishwakarma aged 48 years, working as Scientist 'E' & Regional Director, having office at the Regional Directorate (Pune), Central Pollution Control Board, do hereby solemnly affirm and state as under;

That, I am presently working as Scientist 'E' and Regional Directorate (Pune), Central Pollution Control Board (hereinafter referred to as **CPCB**), and that I am fully conversant with the facts of the case and hence, competent to swear this reply affidavit on behalf of the CPCB.

Para-wise comments:

1. That the averment made in Para 1 under the heading 'Brief facts' is about the information of the Applicant and hence needs no comments from this Answering Respondent.
2. That the averments made in Paras 2 to 7 under the heading 'Brief facts' is about the name and official information of Respondent no. 1 to 7, therefore invites no comments from this answering Respondent.
3. That the averments made in para 8 under the heading 'Brief facts' is about the illegal dumping of the untreated toxic effluent from an anodizing plant into the MIDC drain by the Respondent No. 1. Also, subsequent correspondence between the Applicant and Respondent No. 6 regarding the irregularities caused by the Respondent No. 1, application filed under the Right to Information (RTI) Act, 2005 by the Applicant for obtaining

documents and information related to the Respondent No. 1 and hence need no comments from the answering Respondent No. 3.

However, it is humbly submitted that applicability of consent has been stipulated vide Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 which lays down the provisions about the restrictions on new outlets/discharges and previous consent of the State Pollution Control Board to establish or take any steps to establish any industry, operation or process, or any treatment, etc. and the same are reproduced as below:

25. Restrictions on new outlets and new discharges.— “[1] Subject to the provisions of this section, no person shall, without the previous consent of the State Board, —

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlets for the discharge of sewage; or

(c) begin to make any new discharge of sewage;

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988 (53 of 1988), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section(1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

[(4) The State Board may —

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—



(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.]

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on



the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30, —

(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;

(b) the expression "new discharge" means a discharge which is not, as respects to nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge."

4. That the averments made in paras 9 & 10 is about filing of an appeal before Respondent no.5 w.r.t. the RTI Act filed by Applicant and subsequently the reply given by Respondent no. 6 to the said Appeal. The said averments is a matter of court record, and hence needs no comments from this Answering Respondent.
5. That the averments made in para 11 is about filing of complaint by the Applicant for illegal manufacturing of polyester resin by the Respondent No. 1 and its untreated discharge into MIDC drain, ultimately flows into River Krishna, does not invite any comments from this Answering Respondent.
6. That the averment made in para 12 is about the action taken by the Respondent No. 6 against the Respondent No.1 with regard to the complaint filed by Applicant, and hence needs no comments from this Answering Respondent.
7. That the averment made in para 13 is about another complaint communicated by the Applicant to the Respondents regarding the operation of plant by the Respondent No. 1 without obtaining the valid



Consent To Operate and subsequent discharge of untreated industrial toxic effluent into MIDC drain which ultimately flows into River Krishna. It is humbly submitted that violations, if any, of provisions of the Water (Prevention and Control of Pollution) Act, 1974, are to be dealt in accordance and in exercise of powers vested under the said Act.

8. That the averments made in the paras 'A' to 'H' under the heading 'Grounds' requires no comments from this Answering Respondent.
9. That the averments made in Paras 14 to 18 invites no comment from this Answering Respondent.

PRAYER

It is humbly submitted that Anodizing units are required to operate with valid Consent to Establish (CTE) and consent to operate (CTO) issued by SPCB and these units need to comply with the Environmental Norms as stipulated under the Environment (Protection) Rules, 1986. Operation of the unit without having valid CTE/CTO is in violation of the law. Appropriate action against the defaulter unit may be taken by SPCB under the provision of section 33A of Water Act, 1974 and 31A of Air Act, 1981.

SPCB is the responsible authority for granting/rejecting of Consent to Establish (CTE) and consent to operate (CTO) for any industrial establishment in the respective State/Union Territory on applications made in this regard to them and to ensure that such establishments comply with the prescribed environmental norms as stipulated under the Environment (Protection) Rules, 1986.

That in light of the above submissions, it is respectfully prayed that this Answering Respondent No.3 i.e. CPCB, is committed to abide by the order or directions passed by this Hon'ble Tribunal in this matter, as appropriate.



(DEPONENT)



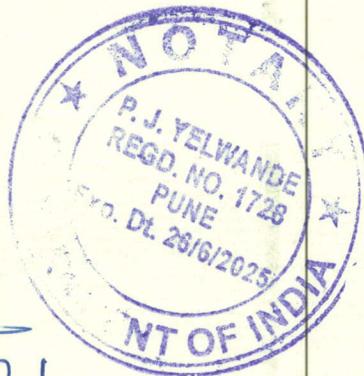

DEPONENT

VERIFICATION

I, Shri. Bharat Kumar Sharma, working as Scientist 'E' and posted as Regional Director (Pune), Central Pollution Control Board of the 3rd Respondent herein do hereby state that what is stated in paragraph 1 to 11 above are true to the best of my knowledge, belief and information.

Verified at Pune on this the 04th day of October, 2021.


Deponent- Respondent no.3



BEFORE ME

P. J. YELWANDE
NOTARY GOVT. OF INDIA
PUNE.

4 OCT 2021

Noted and Registered
at Serial Number 2039
Date

04.10.2021

