

Next date: 12.11.2021

257

**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. 7 - PUNDLIK K. MIRASHE**

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Date: **07-11-2021**

Place: **Mumbai**

Filed by:



R. B. Mahabal रघुनाथ भालचंद्र महाबळ

BE (Mechanical), ME (Industrial Management) VJTI-Mumbai, LLM (Mumbai)
Chartered Engineer, Fellow of Indian Institution of Engineers, IIE Arbitrator

ADVOCATE - High Court, Bombay [MAH/349/2012] National Green Tribunal

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made party by name as Respondent No.7 apart from Respondent No.3, which is MPCB

2. I have perused the matter and granted the consent in the official capacity and as such there is no reason for the Applicant to make the personal allegations in any manner. Applicant needs to strictly prove his motive in making me Respondent by name, when an official has acted in an official capacity.
3. Applicant has not filed this Original Application (OA) with clean hands. The issues mentioned under the guise of this application are not even remotely covered by the Acts covered under the NGT Act and the Schedule. ***Application has been filed with ulterior motive, mala fide intentions, and with a view to harass, pressurise the officials of the MPCB, and for preventing them from acting in their official capacity, freely.*** This has become the business and trend of the applicant to make wild allegations against the statutory authorities, officials of the MPCB and even the members of the appointed Joint Expert Committee with a view to harass, pressurise and prevent them from acting fairly and freely.
4. All the issues related to MPCB will be formally responded by the Respondent No.3 in their formal affidavit. To avoid repetition, I am limiting my submission to challenge intentional inclusion of only my name in the application.
5. I am just challenging as to why my name has been included personally by name and that too on my official address.
6. I am likely to retire next year. I was working in the Central Pollution Control Board for around 14 years, prior to joining

Maharashtra Pollution Control Board. I am one of the Member of various Committees based on my personal abilities by name and by designation or the post held in MPCB. There is a disgruntled sponsor, who have used this habitual applicant to malign my name by unnecessarily dragging it in this application, personally by name.

7. Industry had obtained the 'Environmental Clearance' way back in year 2011 which was later revalidated in the year 2018. The industry seems to have not completed their project activities during that period of time. Applicant has not challenged the first EC or the subsequent revalidation OR act of any official in granting such EC or revalidation, in their official capacity OR their personal capacity. As such the EC, it's revalidation in formal capacity and action of all individual Members of SEAC/SEIAA in their personal capacity was correct and hence not questioned.
8. 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 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.
9. It can be seen from the record that I have upheld the observations and findings of the concerned Officers of the Respondent Board. I have upheld them in the interest of

environment, applying precautionary principle. When the query was raised by concerned Officer and accordingly, the Show Cause Notice (SCN) was issued to the industry asking them to comply with the queries, failing which the application for grant of 'Consent to Operate' would have been refused.

- 10. In the present application, all other concerned officials, who visited the site in their formal official capacity, made the field observations, read, applied mind, recommended and forwarded the matter are not questioned for their acts, decisions, observations and recommendations, which indicates that their action is absolutely correct on merit, true, legitimate and hence unquestioned.**
11. So if all of them and their actions are correct, which I also agree and concur, and then why only my name is impleaded as Respondent.
12. The present application is filed after 2 months of accident on the basis of News appeared in the Newspaper. Then how, that accident is even remotely related to the complaint against me to Office of Lokayukta? Is any of the contents in the compliant are eventually resulted in causing the explosion, is what applicant wants to say? If not, then applicant has used this august forum of Hon'ble Tribunal to settle the scores of his sponsor, malign the image of the Board official and compelling him not to stand by truth/fact under fear.
13. Any official, who have judicially acted upon in the course of his formal duties, should not be questioned for the irrelevant and non-related facts with the incidence under

challenge. My appointment, pay-scale, rank and the work allotted to me is not related to the accident that has happened.

14. As and when the matter came before me, I have gone through the Visit Report, Site Visit Report, observations by the concerned Officials of the Respondent Board and I do not find anything wrong in it. I had in fact concurred with them and upheld their findings. I approved to issue the SCN, examine the details furnished by him and granted the consent to Respondent No.8-Industry by following due procedure.
15. It is submitted that the Hon'ble NGT, Principal Bench, New Delhi in Original Application No.1038/2018 filed by News Item in Asian Age has passed Orders dated 10.07.2019 and 23.08.2019. In the meantime, the Central Pollution Control Board vide letter dated 25.10.2019 has communicated Mechanism for Environment 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. The directions of Hon'ble Tribunal are rather very loud and clear to ensure that all industries are not victimised by their orders treating them as carpet bombing and stopping or not allowing any and all industries to come in future.

16. 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.
17. 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).
18. The Respondent No.8-Industry was 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).
19. The industry was 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.
20. The industry was granted the EC, which was revalidated in 2018. Industry was granted Consent to Establish in year 2008. Industry does expansion by investing on the basis of these permissions granted to them. As such industry needs to be granted Consent to Operate, if it is fulfilling all requirements to comply with emission/effluents standards prescribed under the provisions of the Water (Prevention and Control of Pollution) Act 1974, Air (Prevention and Control of Pollution) Act 1981 and Authorization under the

provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016.

21. It is pertinent to note that the Respondent Board had created the post of Assistant Secretary (Technical) on the establishment of the Maharashtra Pollution Control Board and I was not the Officer for whom this post of Assistant Secretary was created OR I was not the first occupant of this post. My senior and predecessor had graced this post in the past and after his retirement, the Respondent Board had promoted me on merit on the said post. I state that these issues are not under the scrutiny or jurisdiction of this Hon'ble Tribunal.
22. I say and submit that the Respondent Board has granted Consent to Operate to the Respondent No.8-Industry as per consent delegation powers, vide Office Order/s issued from time to time. Accordingly, I have formally signed and issued the Consent on behalf of the Respondent Board.
23. I say and submit that the explosion occurs due to blast of reactor which is operational issue of the unit & comes under the purview of Directorate of Industrial Safety and Health Department (DISH), which is nothing to do with consent management. The same incidence was occurred due to mishap of the industry.
24. The said unit has installed & operated additional reactor without knowledge of the Board and without obtaining consent to operate of the Board & amendment in Environmental Clearance. Also, Board has issued closure Direction to M/s. ANK Pharma Pvt. Ltd. on 13/01/2020 for carrying out manufacturing activity in the unauthorized building near the entry gate without obtaining prior Consent

from MPC Board and Environment Clearance from SEAC Environment Department, Government of Maharashtra.

25. The accident was occurred in the administrative building, where industry was not supposed to install reactor and centrifuge etc. This is contrary to what was stated in the application. The Respondent No.8-the industry would face the consequences for this as their absolute responsibility.
26. Applicant has the grudge against me and making allegations with *malafide* intention and harass, threaten and discourage me from doing my official duties. Therefore, only my name is added as a Respondent No.7 in the present application.
27. The applicant is not the environmentalist. Applicant is not the person who is aggrieved party, injured, harmed or affected by the accident, which is entirely out of jurisdiction of even MPCB. **None of the actions by me OR MPCB including granting of Consent has resulted in causing even the possibility of accident.** The orders passed by NGT in OA 1038/2018, ZLD, post held by me, it's appropriateness in service law, complaint before Lokayukta are all irrelevant facts dragged in to this application under NGT Act. **In fact, to assassin my character, question my credibility and malign my image was the sole objective of the applicant.**
28. If this kind of attempts are not condemned and such applicants are allowed to go free, such abuse of process of law and wasting of precious time of Hon'ble Tribunal will not stop.

- 29. **The applicant and his advisors are sitting in India, using the pious judiciary against the development of the country.** When the Committee Reports are not in their favour, they also make the allegations against the Hon'ble Members, demand fresh Committee; re-visits to site, and harassment continues.
- 30. In view of the above, this Hon'ble Tribunal may kindly impose the exemplary fine of Rs.1 Crore to be paid to the Environment Relief Fund established under NGT Act, OR to any other environment welfare fund OR Bar Association as deemed fit, so as to prevent filing of such types of frivolous applications in future.



Date: **07-11-2021**
Place: **Mumbai**

**Pundlik K. Mirashe
RESPONDENT NO.7**

10 NOV 2021



BEFORE ME

SP Rokade
Savita Pradeepkumar Rokade
**ADVOCATE & NOTARY
GOVT. OF INDIA**

**Noted and Registered
at Serial Number
Reg. No.- 443/2021
Book No. 04**



Ax. R1

NOTE ON CONSENT PROCESSING

CONSENT TO ESTABLISH:

1. The Maharashtra Pollution Control Board (MPCB) has granted consent to Establish to M/s ANK Pharma Pvt. Ltd. Plot no. M- 2, MIDC Tarapur Dist- Palghar vide letter dtd. 24/03/2008 with discharge of treated effluent to CETP (C to E Copy attached as Annexure-I)

ENVIRONMENTAL CLEARANCE:

2. The industry has obtained an Environment Clearance vide letter no. SEAC-2010/CR654/TC.2 dtd. 07.06.2011 and same was revalidation vide letter dated 12.20.2018 with discharge of treated effluent to CETP (Copy attached as Annexure-II)

CONSENT TO OPERATE:

3. The Consent to Operate was granted to industry as given below.
 - a. Industry has applied for 1st Consent to Operate to the Board vide No. MPCB-CONSENT-0000059010.
 - b. After scrutiny, Board has issued show cause notice on 04/7/2019 for non-completion installation work of plant & Machinery including pollution control system (Copy attached).

T.C.



- c. Industry submitted reply on 08/7/2019 in which reported plant & machinery installation is completed (Copy attached).
- d. Board Office called status report from Field Office vide e-mail dated 07/8/2019 (Copy attached).
- e. Board Officials visited to the said unit and observed commissioning of the plant. Further, during visit industry representative reported that, building constructed near main gate will be utilized for administrative purpose. (visit report copy enclosed)
- f. On the basis of provision of pollution control system & commitment towards recycling of the entire treated effluent by distillation activity & site observations, Board has granted 1st Consent to Operate on 02/1/2020 for manufacturing of Povidone Iodine, Piroxcalm, Phenyl Propanol Amine - HCL, Nalidixin Acid, Chlorosoxazone, Phenyl Ephrine HCL with certain terms and conditions wherein stringent condition imposed to recycle the entire treated effluent into the process.

HON'BLE NGT ORDER & ITS COMPLIANCE:

- 4. Hon'ble NGT Original Application No. 1038/2018 has passed the order on 10.07.2019 the CEPI score of Tarapur is 93.69. The said unit located in MIDC Tarapur which is critically polluted area. Hon'ble NGT passed an order in Application No. 1038/2018 on 10/7/2019 & 23/8/2019. Board has called legal opinion on these directions from Panel Advocate and in which opinion that,

Board can consider the applications for grant of consent to establish.

5. **Meantime, CPCB communicated mechanism for environmental management of critically and severely polluted areas & consideration of activities/projects in such areas in compliance to Hon'ble NGT order dated 23/8/2019** in the matter of O.A. No. 1038/2018 vide letter No. CPCB/PPC-VII/CEPI/NGT/2019 dated 25/10/2019.
6. In the said letter asked to impose stringent conditions for consideration for grant of EC for new and expansion activities listed in Red & Orange categories located in Critically Polluted Area (CPA) & SPA. Further, Hon'ble Supreme Court of India stayed operation of the order passed by Hon'ble NGT dated 10/7/2019 & 14/11/2019 vide order dated 18/3/2020.
7. In accordance with the mechanism communicated by the CPCB, MPC Board **has considered Consent to Operate with stringent condition of ZLD.**

ZERO LIQUID DISCHARGE:

8. MPC Board has published Enforcement Policy on 01/3/2016 in which defined the meaning of Zero Liquid Discharge as below:
9. The earlier concept of ZLD which include not only zero liquid discharge into environment by **total recycling, reuse, reprocess, re-circulate or recover of liquid waste, thereby not discharging any waste into the**

environment but also application **of treated liquid effluent after achieving standard on land for irrigation purpose, thereby ZLD was including disposal of treated effluent/application thereof on land for irrigation/plantation purposes.**

10. **New definition of ZLD:** Now it has been decided that ZLD needs total utilization of liquid effluent in the process itself. Process includes recycle/ reuse/reprocess/recover or combination thereof, **thereby nothing is discharged into the environment (stream or on land)** therefore it becomes necessary to define separately land application or disposal on land.
11. **The Enforcement policy doesn't define treatment system for ZLD. Industry can achieve ZLD by installing any treatment.**
12. In this case, the said unit has installed primary & tertiary treatment system which further proposed to distillate in distillation/reactor to achieve ZLD. Accordingly, Board imposed condition of ZLD. **[ZLD has been now redefined so as to allow the evaporation of the effluent by any method to achieve ZLD, so that water doesn't go outside the factory premises].**

Ax. R-2

This is auto-converted record of computer-generated record from the Consent Management System. As such internal short-forms are kept as it is.

Short forms used are explained below.

AST (HQ)	Assistant Secretary (Head Quarter)
C to E	Consent to Establish
C to O	Consent to Operate
C.A.	Chartered Accountant
CETP	Common Effluent Treatment Plant
CHWTSDF	Common Hazardous Waste Treatment Storage Disposal Facility
CMD	Cubic meter/day m ³ /day
Cr	Crore
EC	Environmental Clearance
EIA	Environment Impact Assessment
ETP	Effluent Treatment Plant
FO	Filed Officer
MPCB	Maharashtra Pollution Control Board
SCN	Show Cause Notice
SRO	Sub-Regional Officer
TEPS	Tarapur Environment Protection Society
ZLD	Zero Liquid Discharge

Task Flow - Recommendations

MPCB Officers

Recommendations

T.C.



Shri. M.S. Holkar (SRO-Tarapur I)
on 19-03-2019 13:46:13

Process & put up.

Dr. Arjun M. Jadhav (FO-Tarapur I)
on 22-05-2019 18:19:04

SSI Red category unit, applied for C to O along with 5 terms consent fees. Unit has obtained C to E dtd. 24/03/2008, capital investment shown in C to E Rs. 96.0 lacs. Obtain Environmental Clearance dtd. 07/06/2011, which is revalidated on 20/12/2018, which is valid up to 05/06/2023. As per C.A. Certificate unit has increased capital investment from 96.0 lacs to 2.17 cr. Presently unit is found not in operation, erection of machinery and equipment found in progress. Official of the unit told erection work will be completed within next 15-20 days and unit is ready for operate for one product within next 25 to 30 days. Provided primary and Tertiary effluent treatment system, presently mechanical work of ETP found in progress, as per official of the unit. it will be completed within next 20-25 days. As per Official of the unit, treated effluent will be disposed to CETP. Unit has not renewal C to E till, Hence Rs. 15000/- considered as C to E fees, remaining Rs. 65000/- considered as C to O fees for the period of 4 Terms. Submitted for grant of consent

Shri. M.S. Holkar (SRO-Tarapur I)
on 28-05-2019 17:06:20

Field Officers above remarks may please be seen. This is new industry & intends to dispose the treated effluent to CETP. The TEPS-CETP is non-performance CETP & in compliance to Hon'ble NGT Order application for grant of consent may be refused.

Mr.P.K.Mirashe (AST-HQ)
on 01-06-2019 12:03:43

Process & put up.

Shri. R.K. Injulkar (FO-HQ)
on 26-06-2019 18:29:18

1. Unit has obtained consent to establish on 24/3/2018 for mfg. of Bulk drugs. The products come under 5(f) of Schedule of EIA Notification, 2006 and require Environmental Clearance. Industry has obtained Environmental Clearance on 07/06/2011 and same has been revalidated on 20/12/2018. industry has applied for 1st Consent to Operate. SRO reported that, installation work of plant & machinery not yet completed. Industry has not submitted detailed manufacturing process including material balance & chemical reactions involved in the same.
2. The capital investment of the unit is 2.17 Cr as per CA certificate submitted by the unit.
3. Waste water Aspect: Trade effluent generation is @ 1.05 CMD. SRO reported that, Industry has proposed primary & Tertiary treatment system and treated effluent will be disposed to CETP, Tarapur. ETP installation work not yet completed. Further, Industry has not installed online monitoring system. The said unit located in MIDC Tarapur i.e. non-confirming CETP area where new establishment without ZLD will not be considered.
4. Air Pollution Aspect: FO fired Boiler is with stack of 15.0 mtr height. Industry has not submitted details of process emissions and pollution control system provided.
5. Hazardous Waste management: Hazardous Waste of Category No. 28.1, 28.6 & 35.3 will be generated and its disposal proposed as per the provisions of Rule. Industry has not submitted membership of CHWTSDF for disposal of HW.

Considering the above not compliances, a show cause notice for refusal of consent may be considered. A draft SCN placed for approval & sign, please. Submitted for further order, please

Mr.P.K.Mirashe (AST-HQ)
on 04-07-2019 12:48:20

Put up legal action through module

Shri. R.K. Injulkar (FO-HQ)
on 04-07-2019 12:51:09

SCN placed for sign.

Mr.P.K.Mirashe (AST-HQ)
on 04-07-2019 12:51:59

Put up with SCN reply

Shri. R.K. Injulkar (FO-HQ)
on 02-01-2020 12:53:38

This office has issued show cause notice on 04/1/2019. In response to the same, Industry has submitted reply which shows-

- a) Plant & Machinery Installation: Industry has completed installation work of Plant & Machinery and same is verified by Board officials on 10/10/2019.
- b) Installation of ZLD System: Trade effluent generation is @ 1.05 CMD for which primary & tertiary treatment system provided and treated effluent proposed to distillate in distillation column/reactor and condensate will be recycled in process so as to achieve ZLD.
- c) Industry has installed scrubber for control of process emissions.
- d) Industry has submitted CHWTSDF membership. As consent to establish issued on 24/3/2008 and industry proposed to achieve ZLD, consent to operate may be considered. A draft consent order placed for approval & sign, please

* * *

Thereafter 'Consent to Operate' was issued to industry on 02 January 2020.

T.C.



MAHARASHTRA POLLUTION CONTROL BOARD Sub Regional Office - Tarapur-I

Phone: 02525-273314
Visit us at: - <http://mpcb.gov.in>
e-mail: srotarapur1@mpcb.gov.in

MIDC Office Building,
Boisar Station, Post
Taps, Tarapur, Dist Thane

Visit Report

Date: **10.10.2019**

Industry Name	M/s ANK Pharma Pvt. Ltd.	
Address	M-2 MIDC Tarapur Dist- Palghar	
Officer Name & Contact	Ankit Patel – 9833717373	
Consent Status	Consent No.	Validity
		Date

Industry visit was carried out W.R.T verification of installation of plant & Machinery. During visit following observations reported.

1. Industry has installed 3 GIR (Glassline reactors) 3 SSR (stainless steel reactor's) 2 centrifuge, drier. The plant is commissioned.
2. PP has during visit other civil work of office building found in progress. **PP reported that in the same building no plant and machinery required.** Same building will use for office Admin building purpose.
3. PP has submitted their reply toward SCN.

Sd/-
Ankit Patel
Industry Representative

Sd/-
Kiran Patil
Field Officer, MPCB

T.C.



Ax. R4

MPCB JOIN INSPECTION REPORT

Date: **12.01.2020**

Name of the Industry. M/s ANK Pharma Pvt. Ltd. M-2,
MIDC, Tarapur, Boisar, Palghar

Industry has been visited by along with ISRO upm receiving the information of accident in above factory on dt. 11.01.2020

During visit it was observed that

1. Building found partly collated & damaged due to blast of reactor.
2. 5kl steel reactor found bursted into pies due to the blast. Having thicken of 22mm at shall dish 16 mm at shall with cooling jacket.
3. Pressure value not found on the reactor material traces/residues not found/notice in and around the premises.
4. **Approx. 200 No. of 50 Kg capacity plastic drum filled with acid found stored in premises.**

T.C.



5. Container filled with dimethyl for was found stored is premises.
6. Ortho Chlorotoluene 2-3-xylidine, Trans-4-aminocyclohexanol found filled in plastic container were noticed on spot.
7. Record of material inward outward and entry of person are not mentioned at entry gate
- 8. We understood that some material were shifted to plot no. m-2 to M/s. Alexo chemicals plot no, N-174, Tarapur MIDC hence visited M/s. Alexo chemical.**
9. On discussion with plant operator. Shri. Rupsingh Gond (mobile No. 9770831743) it is come to know that the earlier operator shri. Mohan (Kaka) who had prepared in the incidence said that the material was ortho-cloro-benzoil acid. This ortho-cloro-benzoil acid is also imported from china and store in the storage on tint of the building in huge quality.

Sd/-

**SRO
Tarapur-I
MPCB**

Sd/-

**Industry
Representee**

Sd/-

**F.O. SRO
Tarapur/
Officer MPCB**

T.C.





National Green Tribunal



Case Title	SAYYED MOHAMMED SABIR USMAN Vs. Member Secretary-CPCB
Miscellaneous No.	2704138001252020/6
Transaction id	2700410170692021
Bank Transaction id	0711210003889
Payment Date	2021-11-07 00:00:00.0
Amount	100 Rs.
Status	SUCCESS

S. No.	File Name	Party Name	Location	Document Type
1	OA 19_2020(WZ) Sayyed Usman Vs Uo...irashe c (Page 237-257) 07-11-2021.pdf	Mr. PUNDALIK K. MIRASHE- Assistant Secretary (Technical)	PUNE (WESTERN ZONE BENCH)	Reply