

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE, PUNE

Execution Application No. 10/2022

IN

Original Application No 69/2021



MR. MAHENDRA GOVIND HASBNIS - APPLICANT

VERSUS

CIKAUTXO INDIA PVT LTD. AND OTHERS- RESPONDENT

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Pune

Dated: 06th February, 2024

Deepti

DEEPTI MAHURKAR
Advocate for the Applicant



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MR. MAHENDRA GOVIND HASBNIS - APPLICANT
VERSUS
1. CIKAUTXO INDIA PVT LTD. AND OTHERS - RESPONDENTS

AFFIDAVIT-IN-REPLY AND OBJECTIONS FILED ON BEHALF OF THE EXECUTANT- APPLICANT IN RESPONSE TO JOINT COMMITTEE REPORT DATED 14TH AUGUST, 2023, SUBMITTED BY THE RESPONDENT NOS. 9 AND 10, IN THE EXECUTION APPLICATION NO.10/2022 (WZ), IS AS FOLLOWS -

I, Mahendra Govind Hasbnis, age about 61 years, Occup. Agriculturist and Business, residing at Survey No.408/7, Limbfata, Mumbai-Pune Road, Talegaon Dabhade, Taluka Maval, District Pune 410506, the Executant-Applicant herein, do hereby state on solemn affirmation as follows -

1. That the Applicant has filed an application before this Hon'ble Tribunal to restore his fundamental right to life and clean as well as secured environment under Article 21 of the Constitution of India and to restore the property of the Applicant damaged due to intentional pollution of the Respondent Nos. 1 to 6, bearing Original Application No.69/2021, on 16th August, 2021 i.e. Annexure 'A-1'.

2. That this Hon'ble Tribunal vide its order dated 1st October, 2021, was pleased to direct the Respondent No.9 i.e. Member Secretary, Maharashtra Pollution to cause inspection of the Respondent No.1 unit/factory i.e. Cikautxo India Pvt Ltd. and file a factual and action report as to the complaints of the pollution control norms and that whether the operation of the said unit, is resulted in any environmental impact?. Annexure 'A-2' is the copy of order dated 1st October, 2021, passed by this Hon'ble Tribunal in the aforesaid Original Application No. 69/2021.

3. That the Joint Inspection Committee of Respondent No.9 i.e. Member Secretary, Maharashtra Pollution Control Board had caused their visit on 24th November, 2021 of the Respondent No.1 unit/factory i.e. Cikautxo India Pvt Ltd. and submitted its report dated 25th November, 2021 in the aforesaid Original Application No.69/2021. Annexure 'A-3' is the copy of factual and action report dated 25th November, 2021, which has been filed in Original Application No. 69/2021.

4. That thereafter, the Applicant herein had filed his Affidavit-In-Reply dated 16th January, 2022 in response to factual action report dated 25th November, 2021, in the original application 69/2021 (WZ), in compliance of the order dated 1st October, 2021, passed by this Hon'ble Tribunal, which is at Annexure 'A-4'.

5. That this Hon'ble Tribunal after hearing and perusal of supported documents, vide its order dated 17th January, 2022, [Annexure 'A-5'] was pleased to issues following directions, in the aforesaid Original Application No.69/2021(WZ) -

8. In view of above, we direct the State PCB to make a realistic assessment of compensation for the damage to the environment and also the PP by loss of cattle, mangroves or otherwise due to air pollution being found in his premises, as noted above, after giving opportunity of being heard to the PP. The State PCB may also need consider restoration measures for the past violations and remedial action to prevent violation of environmental norms in future. State PCB may complete its action preferably within three months. We further direct that pending consideration by the State PCB, the PP may deposit interim compensation of Rs. 5 lakhs. If the deposit is not made, the State PCB may take coercive measure including, closure till payment. The payment will abide by further orders of the State PCB. Out of the amount deposited, an amount of Rs. 2 lakhs be paid to the applicant towards interim compensation by way of cheque or by way of credit to his account, if the applicant provides his bank account number. The payment of Rs. 2 lakhs will not debar the applicant from claiming higher amount if such a claim can be substantiated, which aspect may be considered by the State PCB.

6. That the state PCB on 7th June, 2022 had paid an amount of Rs. 2,00,000/- as per the order dated 17th January, 2022, passed by this Hon'ble Tribunal in Original Application No.69/2021, by way of cheque dated 6th June, 2022, bearing Cheque No. 531199, drawn on Bank of State Bank of India, Pune.



7. That as per the order dated 17th January, 2022, passed by this Hon'ble Tribunal in Original Application No.69/2021, the State PCB had failed to make a realistic assessment of compensation for the damage to the environment and also the PP by loss of cattle, mango trees or otherwise due to air pollution being found in his premises, after giving opportunity of being heard to the PP, in accordance with the guidelines issued by MOEFCC for the assessment of Environmental Damages. That further the State PCB also failed to consider restoration measures for the past violations and remedial action to prevent violation of environmental norms in future and that too in stipulated time of 3 months from the date of order dated 17th January, 2022. That the state PCB was required to comply with order dated 17th January, 2022, within three months i.e. till 16th April, 2022 and therefore, the Applicant has filed present execution application before this Hon'ble Tribunal in order to execute order dated 17th January, 2022, passed by this Hon'ble Tribunal in Original Application No.69/2021.

8. That the Applicant herein has mentioned in detail in execution application about ignorance of the Respondents towards the order dated 17th January, 2022, passed by this Hon'ble Tribunal in Original Application No.69/2021. That so also the Applicant has also mentioned in execution application about the present damage to his property and to the environment due to day-to-day polluting activities of the Respondent No.1 company and its directors. That in order to avoid repetition of contentions, the pleadings enumerated in Original Application as well as in Execution Application needs to be considered as part and parcel of present reply.

9. That the state PCB i.e. the Respondent Nos. 9 and 10 have filed their Reply-Affidavit on 09th February, 2023, in respect of assessment of Environmental Compensation. That the Respondent Nos. 9 and 10 in their Reply-Affidavit, particularly in paragraph No.3 (Page Nos. 106 and 107) have made assessment of Environmental Compensation as per methodology of CPCB confirmed by the Hon'ble NGT in O.A. 593/2017 Paryavaran Suraksha Samiti Versus UOI and others dated 28th August, 2019. That the State PCB also showed its inability to assess the damage caused due to loss of cattle/mango trees/otherwise, as it does not have expertise to make such assessment.

10. That the assessment made by the Respondent Nos. 9 and 10 is not admitted to the executant applicant and therefore he had raised his objections in response to reply-affidavit dated 09th February, 2023, by filing his Affidavit- in – reply dated 21st March, 2023[Page nos. 181 to 190].



11. That the calculations as per the contents of the Applicant as per methodology of CPCB confirmed by the Hon'ble NGT in O.A. 593/2017 Paryavaran Suraksha Samiti Versus UOI and others dated 28th August, 2019, from 28/09/2015 till 07/02/2024, is as follows-

1.	PI	Pollution Index of Industrial Sector (Consent Categorization)	50
2.	N	Date of Consent to Operate	28/09/2015
		No Compliance has been done, as Respondent No.1 Industry till date using Furnace Oil. Still for calculation considered Date fixed by this Hon'ble Tribunal for hearing	07/02/2024
		Total Number of days of violation	3054
3.	R	A factor in rupees	250
4.	S	Scale of operations (LSI = 1.5)	1.5
5.	LF	Local Factor (Population in million- Less than 1 = 1 Less than 5 = 1.25 5 to less than 10 = 1.5 10 and above = 2)	1.25
	Environ ment compens ation	EC = PI x N x R x S x LF EC=50x3053x250x1.5x1.25	<u>7,15,78,125/-</u> =

That therefore, environmental assessment is to the tune of Rs. **7,15,78,125/-** from 28th September, 2015 till 07th February, 2024. That therefore, the Respondent No.1 Industry needs to be directed to pay an amount of Rs. **7,15,78,125/-** to the State in addition to personal compensation as claimed by the Applicant.

12. That the Applicant states that vide order dated 08th February, 2023, passed in present Execution Application, this Hon'ble Tribunal was pleased to provide last opportunity to the Executant Applicant to place before it his own assessment as regards to personal loss in order to claim

compensation from Project Proponent i.e. the Respondent No.1 to 8 by paying court fees by submitting Form No. II in that regard. That therefore, as per the order dated 08th February, 2023, the Executant Applicant has filed FORM NO. II and also paid court fees for the purpose of claiming personal compensation.

13. That as the Executant-Applicant has quantified the personal compensation to the tune of Rs. 3,10,41,600/- (Three Crore Ten Lakh Forty One Thousand and Six Hundred only) excluding the emolument to be paid to the Expert and the amount of mental agony. That therefore, the Hon'ble National Green Tribunal (Western Zone), Pune, vide its order dated 22nd March, 2023, passed in E.A.No.10/2022, deem it appropriate that the same should be got verified by constituting a Committee comprising one Member each of:-

- (i) Central Pollution Control Board (CPCB);
- (ii) Secretary, Department of Animal Husbandry; and
- (iii) Maharashtra Pollution Control Board (MPCB).

14. That so also, the Hon'ble National Green Tribunal (Western Zone), Pune, vide its order dated 22nd March, 2023, passed in E.A.No.10/2022, specifically paragraph No.15 of said order was pleased to direct the Applicant to supply the required documents and copy of the Application to the members of the committee within 3 days from today i.e. from 22nd March, 2023. In compliance with the order dated 22nd March, 2023, the Applicant had supplied all the relevant documents and the Applications of Original Application No.69/2021 as well as Execution Application No.10/2022, along with Applications, Interim Applications, All Reply, All Rejoinder, All Affidavit-in-Reply, All Annexures as well as all orders passed by the Hon'ble National Green Tribunal, (Western Zone), Pune to the committee members.

15. That the aforesaid joint committee, through the Respondent Nos. 9 and 10, had submitted its report on 14th August, 2023, and the Executant-Applicant is raising its objections to the said joint committee report, which are as follows –



- (a) That the Joint Committee report is very causal, cursory, unscientific, using misleading language, jugglery, in representations and conclusions are different than the actual facts.
- (b) That the Joint committee have admitted violations and pollution on one hand and misleading on the other hand in conclusion report.
- (c) That the Joint Committee failed to give fair and proper conclusion. That the evasive report submitted by the Joint committee cannot be take into consideration, as it was the Applicant who had raised the issue of pollution done by the Respondent No.1 Industry. That so also, the Applicant was/is required to run from pillar to post to get justice for loss of his cattle's as well as trees and damage to his properties.
- (d) That the Joint Committee failed to appreciate the report of the Respondent No. 9 and 10 dated 25/11/2023, which is at Annexure-**A3**, as it has been stated in clause NO. (j) *that during visit the officials of the Respondent-Board at Pune has carried out stack monitoring and Ambient Air Quality Monitoring at the Respondent No.1 Industry and submitted the samples for analysis to the Regional Laboratory, MPCB, Pune.* That point has to be noted that from the date of visit i.e., 24/11/2021 till date the MPCB failed to file analysis report of Regional Laboratory. That most importantly, the joint committee appointed by this Hon'ble Tribunal also failed to consider this point and on this point itself, it is clear that the joint committee report is bias. That not a single question has been raised by the Joint Committee in its report in respect of aforesaid samples and its report, inspite of receiving all documents.
- (e) That the Joint Committee also visited the Respondent No.1 industry as per its report and mentioned that the Industry uses LPG as fuel in the Boiler. That if the Respondent No.1 uses LPG as fuel then as to why the Joint Committee failed to raise issue of giving permission to the Respondent No.1 Industry in Consent to Operate dated 29/09/2021(**Page No.88**) to use Furnace Oil as well as HSD (High Speed Diesel) as fuel. That most immortally, the Hon'ble Principle Bench of National Green Tribunal in Original Application No.67/2019,in its order dated 17/03/2021 concluded that –“ ***we find that in view of established adverse impact of use of Petcoke and furnace oil by the industries, prohibition of its use may need***



consideration on 'Precautionary' principle as well as 'Sustainable Development' principle statutorily recognized under the National Green Tribunal Act, 2010, the industries may have to switch over to alternatives and cleaner fuels". That further the MPCB also in its order dated 03/11/2023, issued to Hindustan National Glass and Industries Limited, F-1. MIDC, Malegaon, Taluka Sinner, district Nashik has specifically mentioned that **use of Furnace Oil as Fuel is banned**. That on one Hand MPCB is giving permission to the Respondent No.1 Industry to use Furnace Oil as Fuel and on other hand MPCB is saying that use of Furnace Oil is banned. That the Joint Committee ought to have considered this Point that Hon'ble Supreme Court in its various orders as well as Judgment has banned the use of Furnace Oil as Fuel for industries considering emission of SO₂. That use of Furnace Oil as Fuel by the Respondent No.1 Industry is the best evidence to prove the overall pollution and emission of carbon particles. This Fact ought to have considered by the Joint Committee.

(f) That further the Joint Committee in its report, particularly Point No.6, Page No.275, mentioned that *"The visit Report under reference 10 states that the premises of Mr. Hasabnis were highly, Polluted due to Carbon Particles and Smoke"*. That this fact is also sufficient to establish that there was/is much amount of pollution in the premises of Mr. Hasabnis. That inspite of having knowledge about pollution, the Joint Committee failed to consider the point that the Pollution caused by the Respondent No.- 1 Industry was/is damaging the property of the Applicant.

(g) That the Joint Committee failed to take into consideration the COVID period, as during COVID period the veterinary doctors of Live Stock Department were not available for doing post-mortem of the cattle's. That on this count itself, the Report of Joint Committee is liable to be rejected.

(h) That the Joint Committee Report also failed to take in consideration the site visit report dated 12/01/2023 of livestock development officer veterinary dispensary- Gr- 1 Talegaon Dabhade, Tal-Maval, Dist- Pune, [Page no. 347] which contains conclusion to the effect that- *"There is problem of hormonal changes in animals and during visit to farms the area and premises were highly polluted due to*



carbon particles and smoke." That in the said visit report dated 12/01/2023 it has been mentioned that total 12 animals facing problem of infertility and if the animals get conceived, repeated abortions occur. That it has been further mentioned that even if proper care and management is taken care, there is reduced milk yield. That the joint committee in its report failed to take into consideration that the animals of the applicant were not conceiving as well as there was reduction in the milk and which ultimately caused huge loss to the applicant. This fact is sufficient to prove that the joint committee report is prepared in order to favour the Respondents and on this count itself the joint committee report is liable to be rejected.

(i) That most importantly the MPCB has not demanded any compensation but still they have claimed compensation to the tune of Rs.1,02,56,250/-, as per its Reply-Affidavit dated 07/02/2023 (Page Nos.105 to 109) and that too as per methodology of CPCB confirmed by the Hon'ble NGT in O.A. 593/2017 Paryavaran Suraksha Samiti Versus UOI and others dated 28th August, 2019. That if the MPCB is permitted to claim compensation by using methodology of CPCB then as to why the Applicant is not permitted to Claim Compensation by using Methodology of CPCB. That this type of discrimination needs to be curtailed to protect the rights of litigants. That therefore, the Joint Committee while determining the compensation the methodology of CPCB needs to be adopted.

(j) That the Joint Committee Report also failed to take in consideration the site visit report dated 12/01/2023 of livestock development officer veterinary dispensary- Gr- 1 Talegaon Dabhade, Tal-Maval, Dist- Pune, [Page no. 347] which contains conclusion to the effect that- *"There is problem of hormonal changes in animals and during visit to farms the area and premises were highly polluted due to carbon particles and smoke."* Which means that the according to hormonal changes the quality and quantity of the milk used to change. Hormonal changes may cause to the animal and consumption of such animals milk will be harmful to the health of the people who will consume such milk. That the Joint Committee ought to have taken into consideration, the report of livestock development officer veterinary dispensary- Gr- 1 Talegaon Dabhade, Tal-Maval, Dist- Pune, as it is the best evidence to prove the contention of the Applicant.



(k) That the committee in its report mentioned that all the animals of Mr. Hasabnis appeared healthy. That merely visiting the site of the Executant-Applicant and just by seeing the animals maintained by the Executant-Applicant how the members of committee without any medical checking of animals came to the conclusion that all animals appeared healthy. That without making any kind of medical tests of animals, the joint committee casually said in the report that all animals appeared healthy. That there is documentary evidence in the form of report of livestock development officer veterinary dispensary-Gr- 1 Talegaon Dabhade, Tal-Maval, Dist- Pune, in respect of hormonal changes of the animals and which was completely ignored by the Joint Committee report and which is sufficient to establish that the joint committee report is erroneous and it has been prepared in casual manner.

(l) That the joint committee in its report stated that “ *as per letter No.2 dt. 12/02/2019, the livestock in the premises of Mr. Hasabnis was continuously exposed to carbon particles of the industry nearby. It was opined that these Carbon Monoxide (CO) Particles slow Co poisoning and have ill effects or hazardous effects on various systems of livestock*”. That there is report in respect of livestock, which shows that the effects of Carbon Monoxide as well as its ill effects on livestock still the Joint committee ignored the said fact and gave evasive as well as unscientific report.

(m) That further the joint committee mentioned in its report that “*Concrete record of purchase and sale of Livestock, productivity of animals, death of livestock, post-mortem reports of all the died animals, sale of animal by products namely milk, manure, fodder purchase etc. were not available with Mr. Hasabnis. Hence the exact losses cannot be ascertained*”. That most importantly, the Applicant is a famer and he used to supply milk and its products to his friends, family and relatives. That it was never assumed by the Executant-Applicant that his animals were suffered due to pollution and therefore, it was wrong to expect that he have to provide as well as maintained record. That the Maharashtra Pollution Control Board being Government Establishment showed its inability to assess compensation for the Applicant on the ground that it does not have expertise then in such case how a prudent man can expect that farmer like the Applicant should maintained all record with the assumption that someday any industry will start and his animals will die due to the pollution of

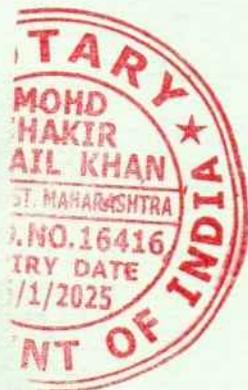


such industry. That therefore, this ground is also self-sufficient to prove that the report of the joint committee is very much casual.

(n) That the Joint Committee in its report mentioned valuation reports(Page No.276) and stated that *“taking in to consideration above observations, the losses claimed regarding livestock by claimant Mr. Mahendra Govind Hasbnis are not justifiable”*. That it was observed by the Joint Committee that the premises of the Executant-Applicant was highly polluted and further the Joint Committee also mentioned contents of reports of livestock Officer. That if the Joint Committee observed polluted premises of the Executant-Applicant and also made references in its premises then on other hand how the joint committee is giving its report which is totally against its observation. That point should be noted that the report of the joint committee is contrary to its observations and on this count itself, the report of joint committee is liable to be rejected.

(o) That the Executant-Applicant claimed compensation for losses of trees. That the Executant-Applicant stated that he had suffered losses due to pollution of the Respondent No.1 industry in respect of his fruit trees as well as other tress. That if the Executant-Applicant was/is stating that all his trees died then how the committee is expecting presence of trees during its visit. That the Joint Committee has mentioned that there is entry of Orchard on 7/12 extract but there were no Orchard during visit. That if the Applicant was/is stating that his entire property is damaged due to pollution of the Respondent No.1 Industry then how he will be able to show Orchard, other trees, loss of production of mango/chikoo trees during site visit of committee.

(p) That the Joint committee mentioned that there was one mango tree on entrance gate and Subhabhul plants with other shrubs vegetation at the backside of the premises were observed to be dried due to improper maintenance and watering. That it has to be noted that Subhabhul trees as well as mango trees after getting matured does not require daily water. That the Joint Committee is claiming that there was improper maintenance of trees and vegetation's on the part of the Applicant. That if the joint committee in its report passing unwarranted comments on the Applicant then in its report they have also observed polluted area of the Applicant, due to pollution of the Respondent No.1 Industry then as to why the joint committee failed to



pass any comments upon industry and its pollution. That this fact is also sufficient to prove that the joint committee is having hand-in-glove with the Respondents, as it has filed one sided report which favours the Respondents.

(q) That the joint committee have also not found any effect on trees/plants in the premises due to dust/Carbon particles from the Industry. That one hand the committee is mentioning in its report that the premises of the Executant-Applicant is highly polluted and on other had the committee is mentioning that it has not found any dust/Carbon particles on trees. That such contrary conclusion with observations cleared that the report of joint committee is bias, as it is favouring the Respondent No.1 Industry.

(r) That the Joint Committee has only passed its comment about the poor housekeeping conditions of the premises of the Executant-Applicant. That in the entire report the joint committee has not raised single word against the Respondents. That this fact ought to have consider by this Hon'ble Tribunal, as the Joint committee also not raised single word against inadequate as well as delayed actions on the part of the Respondent Nos.9 and 10 to control pollution and such inadequate as well as delayed actions were/are responsible for increase of pollution. That this act shows that the joint committee report is not only arbitrary but also bias.

(s) That in fact and in effect, the officials of MPCB-Respondent were/are having hand-in-glove with the Respondent, as in spite of having knowledge of banning of furnace oil as fuel then purposefully given permission to the Respondent No.1 Industry to use furnace oil. That the joint committee in order to hide misdeeds done by the Officials of the MPCB-Respondent and also in order to protect the Respondent No.1 Industry had purposefully given bias report. That on this count itself, the report of joint committee is liable to be rejected.

(t) That it has been mentioned by the joint committee in its report that "*the industry has provided shed/enclosures where carbon used as raw material in the production*". That this new fact has been brought on record by the committee that Respondent No.1 industry uses carbon as raw material. That if the Respondent No.1 Industry is using carbon in shed/enclosures then how the post mortem reports reveals of animals of the applicant shows carbon particles. That the entire



premises of the Applicant is found polluted to the committee on one hand and on other hand committee is making statement that the Respondent No.1 Industry using carbon in shed/enclosure. That this fact is also sufficient to prove that entire report of the joint committee is bias, as it is favouring the Respondent No.1 Industry.

(u) That most importantly, vide order dated 22nd March, 2023, this Hon'ble Tribunal was please to direct the Joint Committee, in order to assess reasonability of the claim made by the Execution Applicant, particularly, in terms of death allegedly caused of the cattle and of trees on account of the pollution emanating from the industry of Respondent No. 1. That nowhere this Hon'ble Tribunal vide its order dated 22nd March, 2023, directed the Joint Committee to visit the site of the Applicant as well as the Respondent No.1 Industry. That since the Executant-Applicant has quantified the personal compensation to the tune of Rs. 3,10,41,600/- (Three Crore Ten Lakh Forty One Thousand and Six Hundred only) excluding the emolument to be paid to the Expert and the amount of mental agony, based on the assessment report of Dr. Rahul Mungikar, which is at Annexure 'A-6' (Page Nos. 130 to 171), this Hon'ble Tribunal only directed the committee to assess reasonability of claim of the Applicant. That therefore, the joint committee instead of visiting sites and passing all comments on Executant-Applicant ought to have considered only assessment report of Dr. Rahul Mungikar for the purpose of assessing the reasonability of the claim made by the Executant-Applicant.

(v) That further, the joint committee also failed to assess the loss caused to the Executant-Applicant's Equipment, Plant, Machinery and loss of ancillary livelihood activities dependent on cattle farm and orchard. That on this ground also the Joint Committee report is liable to be rejected.

(w) That the joint committee has not taken into consideration *Gober gas* unit which is completely non-working, as due to wall collapsing incident pipeline of said Gober Gas Unit of Gas Chamber was completely broken down and therefore, the cattle urine was getting mixed with the dung. That much amount of loss has been caused to the Executant-Applicant due to closure of Gober Gas Unit and which has been not at all considered by the Joint Committee.



(x) That it has been mentioned by in the report of Dr. Rahul Mungikar, Specifically paragraph Nos. 8 and 9, Page Nos. 134, regarding loss of orchard and used of wood by workers. That so also it has been mentioned in said report of Dr. Rahul Mungikar about the equipment's which the Executant-Applicant used to use like pulveriser that was brought for making pulp from mango fruits and bottling them was seen, which is completely in non-functional state as it has not been used since past 8 years and therefore, the investment done towards the business is lost, due to reduction in produces considering the fact of loss of trees due to pollution of the Respondent No.1 herein.

(y) That the joint committee failed to consider the point which has been mentioned in the assessment report of Dr. Rahul Mungikar of sudden unexpected collapse of compound wall and damage which has been caused to the Executant-Applicant due to collapse of said compound wall constructed by the Respondent No.1 Industry [Page No. 146].

(z) That the joint committee failed to consider following points in their report, which has been mentioned in the assessment report of Dr. Rahul Mungikar while evaluating the compensation for Applicant-

- (i) Loss of milking machine and its accessories, pipeline and pulsator.
- (ii) Loss Cattle shed.
- (iii) Loss of live stock during the wall collapse incident.
- (iv) Death of cattle's, cows and buffalos and calves.
- (v) Loss of milk business due to the death of livestock. [Page No.149].
- (vi) Loss of fodder due to the carbon powder layer [Page No.149].
- (vii) Loss of bio-gas plant and machinery related to the same [Page No.150].
- (viii) Loss of business related to cow dung [Page No.151].
- (ix) Loss of Orchid and losses in their production and its machinery [Page No. 151 to 153].
- (x) Loss occurred due to increased cost of medical treatment to animals and trees. [Page no. 154].

(aa) That the joint committee ought to have consider the photographs which has been annexed as a proof alongwith assessment report of



Dr. Rahul Mungikar. That this fact is sufficient to establish that the joint committee failed to follow the directions issued by this Hon'ble Tribunal date 22/03/2023 of making reasonability of claim of the Applicant.

(bb) That the member of MPCB is also included in joint committee by this Hon'ble Tribunal. That said member of MPCB being un-biased is responsible to disclose all true facts as well as documentary evidence to other committee members in respect of all the complaints raised by the Applicant regarding pollution caused due to the production of the Respondent No. 1 Industry, the show cause notices issued by MPCB to the Respondent No. 1 Industry, the orders passed by the MPCB against the Respondent No. 1 Industry, the forfeiture of bank guarantee by the MPCB of the Respondent No. 1 Industry for violating the environmental norms, as well as the objections raised by the Executant Applicant for granting consent to operate to the Respondent No.1 Industry. That from the joint committee report it has been observed that the member of MPCB act biased as he suppressed the aforesaid material facts from the other committee members.

(cc) That the report of the Ambient Air Quality sample analysis is not enclosed with the joint committee report. That, no statement has been made about the samples taken to understand air, soil and water pollution done by the Respondent No.1 company before alleged alteration of fuel from Furnace Oil to LPG and to understand pollution done in the nearby area or water body due to non-operation of inadequate ETP before and 'now operational' ETP of 5 CMD.

16. That the India is primarily an Agrarian Economy. That the Respondent No.1 Industry is engaged in manufacturing rubber hoses for automotive application for APAC region having head-quarter in Spain and member of Mondragon group. That the Applicant is not against the Industrial Development but being Indian farmer he is against the Industrial Development which are harmful for farming and farming related activities. That being Indian we worship cattles and it is very sad that harmful activities of foreign industries are responsible for the death of the livestock. That if the activities of the Respondent No. 1 Industry will not curtail then it would be difficult to protect the Environment.



17. That the aforesaid objections raised by the Applicant are sufficient to establish that the joint committee report has been prepared in a very arbitrary manner, as it favours the Respondents. That therefore the joint committee report is libel to be discarded considering the fact that it is bias.

18. That the Respondent No.1 company is manufacturing rubber hoses with or without fitting under description manufacturing of other rubber products. The operation of the Respondent No.1 Company suddenly increased after 2011 and as a result of which the pollution of hot carbon soot and untreated trade water started increasing in the premises.

19. The Respondent authorities ought to have given 'consent to operate' only after ensuring installation of essential pollution control systems by the Respondent No.1 Company but it seems that the Respondent No.10 and other officials never checked whether the Respondent No.1 Company has adequate pollution control measures installed before giving the Consent in the year, 2015 and in the year 2021.

20. The failure of the Respondent authorities to take appropriate action against polluter has led to further pollution of ground-water, reserved forests and air in the vicinity of the Respondent No.1 Company and property of the Applicant.

21. For the reasons stated above, the Respondent No.1 Company and its directors jointly and severally needs to be directed to pay compensation as claimed by the Executant Applicant.

22. That further Consent to Operate issued by the MPCB to the Respondent No - 1 to ensure response from the Respondents needs to be suspended, for use of furnace oil and high speed diesel.

Whatever stated above is true and correct to the best of my knowledge and information. I have put my signature hereunder at Pune, on this 06th Day of February, 2024.

BEFORE ME

Shihan

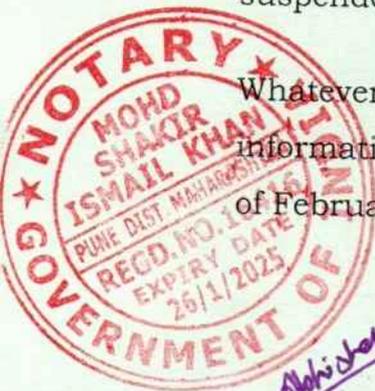
MOHD SHAKIR ISMAIL KHAN
ADVOCATE & NOTARY
GOVERNMENT OF INDIA

Shihan
AFFIANT

6 FEB 2024

I know the Affiant
Advocate

NOTED & REGISTERED
AT SR. NO. :- 242/2024
DATE :- 6 FEB 2024



MAHARASHTRA POLLUTION CONTROL BOARD

Tel.: 24010437/24020781/24014701
 Fax : 24024068 / 24044531
 Website : www.mpcb.gov.in
 E-mail : jdair@mpcb.gov.in



Kalpataru Point, 2nd - 4th Floor,
 Opp. PVR Cinema,
 Near Sion Circle, Sion (E),
 Mumbai - 400 022.

No. MPCB/JD(APC)/Fuel Policy/TB-2/B- 489

Date : 05/02/2020

CIRCULAR

Sub : Policy for use of Pet Coke and Furnace Oil as a fuel in the State of Maharashtra

Ref : Orders passed by Hon'ble National Green Tribunal in Original Application No.67/2019 filed by Sumit Kumar v/s State of Himachal Pradesh.

Shri M.C. Mehta had filed a Writ Petition (s) (Civil) No. 13029/1985 before the Hon'ble Supreme Court of India against the Union of India & Ors., regarding prohibition on use of pet coke and Furnace oil in industries in the NCR state of Haryana, Uttar Pradesh and Rajasthan, wherein, the Hon'ble Supreme Court of India vide order dated 17/11/2017 directed all the State Government and Union Territories to consider similar measures.

Subsequently, the Hon'ble Supreme Court has passed various orders dated 13/12/2017, 05/02/2018, 26/07/2018, 09/10/2018 and in its order dated 09/10/2018, taken on record the Report of Central Pollution Control Board regarding use of pet coke as feed stock in Calcined Petroleum Coke (CPC) units wherein it was recommended that due to emission of SO₂ in high concentration the emission needs to be treated in Flue-gas desulfurization (FGD) systems having removal efficiency more than 90%.

Sumit Kumar has filed an Original Application bearing No.67/2019 against State of Himachal Pradesh & Ors. with clubbed matter before the Hon'ble National Green Tribunal, Principal Bench, New Delhi, for prohibition on use of pet coke and furnace oil as a fuel.

In the aforesaid matter, the Hon'ble NGT vide order dated 28/03/2019 has accepted Report of the Central Pollution Control Board and directed the CPCB to issue appropriate directions in this regard to the concerned States indicating corrective measures against those who failed to comply with the directions.

In compliance of the aforesaid directions, the Central Pollution Control Board has issued directions u/s 5 of the Environment (Protection) Act, 1986 vide letter dated 23/08/2019 directed to all States and Union Territories for preparation of policy on use of Pet Coke and Furnace Oil as follows,

- (i) State Government / Union Territory Administration shall formulate and enforce fuel policy regarding use of pet coke and furnace oil in the State/ Union Territory in light

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ADVOCATE



of various orders passed by Supreme Court regarding use of pet coke and furnace oil in Writ Petition (C) No.13029/1985.

- (ii) State Government / Union Territory Administration through respective SPCB / PCC shall take strict action against any industry, if found violation of the fuel policy on use of pet coke and furnace oil that will be enforced as above, using the powers conferred under environmental laws.

1. Policy:

Accordingly, the following policy is framed for use of Pet Coke & Furnace Oil as Fuel:

(i) PET COKE (PC) :

Petroleum coke, abbreviated coke or petcoke, is a final carbon-rich solid material which is derived from oil refining and is one type of the group of fuels referred to as cokes. This coke can either be fuel grade (high in sulphur and metals) or anode grade (low in sulphur and metals). Pet-Coke is over 80% Carbon and emits 5% to 10% more Carbon Dioxide (CO₂) than Coal on a per unit-of-energy basis when it is burned.

(ii) FURNACE OIL (FO):

Fuel oil (also known as heavy oil, marine fuel or furnace oil) is a fraction obtained from petroleum distillation, either as a distillate or a residue. Fuel oil is made of long hydrocarbon chains, particularly alkanes, cycloalkanes and aromatics.

2. The following fuel will be allowed subject to Conditions mentioned further:

- A. Liquefied Petroleum Gas (LPG)
- B. Liquefied Natural Gas (LNG)
- C. Piped Natural Gas (PNG)
- D. High Speed Diesel (HSD)
- E. Bio Gas
- F. Bio-fuel (Bio-Ethanol etc.)
- G. Refuse Derived Fuel (RDF): To be used in Cement kiln & Waste to Energy plant or any other unit allowed by the Central Government/State Government.
- H. Biomass as fuel (like Bagasse, Briquettes/Pellets etc.)/ Agriculture refuse/dung cake.
- I. Low Sulphur Heavy Stock (LSHS)
- J. Light Diesel Oil (LDO)
- K. Coal/lignite



- L. Firewood/wood charcoal
- M. Naptha/Propane/ gasoline/Hydrogen/Methane
- N. Pet Coke subject to Specific Conditions: In units such as Cement Plant or Lime kiln, Calcium carbide and Gasification for use as feed stock or in the manufacturing process only on actual user basis or in process where Sulphur is completely absorbed as per Office Memorandum issued by Ministry of Environment Forest & Climate Change (MoEF &CC) vide no. Q-18011/54/2018-CPA dated-10-09-2018.
- O. Units having furnaces based upon Furnace Oil as fuel may be allowed with a condition that Unit(s) shall install the system for 90% scrubbing and removal of SO₂ emission and Large scale & Medium Scale unit shall install continuous online emission monitoring system and online data transfer to Maharashtra Pollution Control Board & Central Pollution Control Board.

3. IMPLEMENTATION PERIOD:

- i. Units planning to use Furnace Oil shall follow the timeline given below for compliance with installation of system for 90% scrubbing of SO₂ emission and Large Scale & Medium Scale unit shall install the continuous online emission monitoring system.

Table		Timeline for compliance from the date of Notification.
Category		
Unit(s) irrespective of category falling in Critical Polluted Area (CPAs)/ Severely Polluted Area (SPAs)/Other Polluted Areas (OPAs) based on the Comprehensive Environmental Pollution Index (CEPI) developed by CPCB.		One Year
Rest of Areas in Maharashtra	Red Category	Two Years
	Orange Category	
	Green Category	

ii. In case any units failed to achieve the compliance within the timeline mentioned above, they shall be prohibited for using Furnace Oil.

(E. Ravendiran, IAS)
Member Secretary

Copy submitted for favour of information to:

- Hon'ble Chairman, MPCB, Sion, Mumbai.
- Principal Secretary, Environment, Govt. of Maharashtra, Mantralaya, Mumbai

Copy to:

- PSO / JD-APC / JD-WPC / RO-HQ/Law Officer-1/2, for information.
- All RO / All SRO, MPCB for information & Necessary Action. They are directed to circulate the said circular to all concerned industries/Industries Association and District Magistrates as per your jurisdiction.
- ASO / EIC-For uploading on MPCB Website

MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 0253-2365150
Fax : 0253-2365150
Email : ronashik@mpcb.gov.in
Visit at : <http://mpcb.gov.in>



Udyog Bhavan, First Floor,
Trimbak Road,
Near ITI, Satpur,
Nashik-422007

No. MPCB/PD/2311030007

Date: 03/11/2023

To,
M/s. Hindustan National Glass and Industries Ltd.
F-1, MIDC, Malegaon,
Tal. Sinnar, Dist. Nashik.

Sub: Proposed Directions under section 33 A of Water (Prevention & Control of Pollution) Act, 1974 and under section 31A of Air (Prevention & Control of Pollution) Act, 1981.

Ref: 1. Consent granted by the MPC Board 31.01.2024
2. Visit of official of the Board to your unit on 13.07.2023.
3. Show Cause Notice issued on 24.07.2023.
4. Legal Proposal received from SRO – Nashik vide legal action no. MPCB-LEGAL_ACTIONS- 240723018



WHEREAS, the Maharashtra Pollution Control Board has granted Consent to Operate u/s 26 of the Water (Prevention and Control of Pollution) Act, 1974 and u/s 21 of the Air (Prevention and Control of Pollution) Act, 1981 & Authorization under Rule 6 of the Hazardous and Other Wastes (Management and Trans-boundary Movement) Rules, 2016, Consent granted on 19.07.2021 which is valid upto 31.01.2024, subject to certain terms and conditions.

AND WHEREAS, it is obligatory on your part to provide adequate pollution control devices and comply with the consent conditions so as to achieve the standards prescribed by the Board in its consent.

AND WHEREAS, during regular inspection carried out by of the Official/s of MPCB at 13.07.2023 it was observed that :-

1. As per the consent the trade effluent is 35.0 CMD and Domestic effluent is 95.0 CMD.
2. You have not provided any treatment facility for the trade effluent generated from your industrial activity and as per the consent conditions.
3. During visit STP unit found not in operation.
4. The Operation and Maintenance of the STP found very poor as algae formation observed in the Aeration tank.
5. The Clarifier also found not in proper operation all the algae formation observed in the tank.
6. No any proper demarking / labelling to pipe / tank provide.
7. The record maintenance of STP found very poor.
8. The house keeping around the STP found very poor.
9. You are using Furnace Oil as fuel, same is banned

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ADVOCATE



: 2 :

AND WHEREAS, Board has already issued Show Cause Notice to you vide letter Dt-24.07.2023 for the non-compliances observed during the visit of board officials, **AND WHEREAS**, you have not submitted your reply, this shows your negligent attitude towards pollution control.

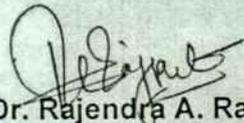
AND WHEREAS, the above non-compliances amount serious violations and clearly shows your gross negligent attitude towards pollution control.

AND WHEREAS, it seems that, your unit is habitual defaulter and you are knowingly and willingly causing the grave injury to the Environment in the nearby area.

NOW THEREFORE, in view of the above non-compliance, you are hereby directed to show cause as to:

1. Why your consent shall not be revoke?
2. Why your industrial activities shall not be closed down ?
3. Why the competent Authorities shall not be directed to disconnect water / electricity supply to your unit ?

You are hereby given an opportunity to respond within 7 days from issuance of these directions, failing which, MPCB will initiate legal action against your unit without giving any further notice in accordance with the provisions of the Water (prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, which please note.


(Dr. Rajendra A. Rajput)
Regional Officer- Nashik

Copy submitted for information to: The Member Secretary, MPCB, Mumbai

Copy f.w.cs.to:-

1. Assistant Secretary (Technical), MPC Board, Mumbai.
2. Law Officer (HQ), MPC Board Mumbai

Copy to: The Sub Regional Officer, MPCB- - He is directed to take follow up and ensure the compliance of the aforesaid directions.

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ADVOCATE