

HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 03/2023 (WZ)

Sandip S/o Sheshrao Jadhav Applicant

VERSUS

The State of Maharashtra & Ors Respondents

WITH

ORIGINAL APPLICATION NO. 53/2023 (WZ)

Sanjay Navgire Applicant

VERSUS

The State of Maharashtra & Ors Respondents

WITH

ORIGINAL APPLICATION NO. 79/2023 (WZ)

Parmod Eknathrao Jadhav Applicant

VERSUS

The State of Maharashtra & Ors Respondents

COMBINED AFFIDAVIT IN REPLY

BY

RADICO NV DISTILLERIES MAHARASHTRA LTD.

RESPONDENT NO. 5 IN THE OA 03/2023 (WZ)

RESPONDENT NO. 5 IN THE OA 53/2023 (WZ)

AND RESPONDENT NO. 5 IN OA 79/2023 (WZ)

INDEX ON NEXT PAGE

Date: **21/11/2023**

Place: **Pune**

Filed by:



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ABBREVIATIONS

Short	Full-form
FIR	First Information Report
JC	Joint Committee
JCR	Joint Committee Report
m³	Cubic meter = 1000 liter
MIDC	Maharashtra Industrial Development Corporation
MPCB	Maharashtra Pollution Control Board
MT	Metric Ton = 1000 kg
NGT (WZ)	National Green Tribunal (Western Zone)
R-5	Respondent No. 5
SCN	Show Cause Notice

AFFIDAVIT IN REPLY

COMBINED AFFIDAVIT IN REPLY
BY
RADICO NV DISTILLERIES MAHARASHTRA LTD.
RESPONDENT NO. 5 IN THE OA 03/2023 (WZ)
RESPONDENT NO. 5 IN THE OA 53/2023 (WZ)
AND RESPONDENT NO. 5 IN OA 79/2023 (WZ)

1. I, Ashish Kapoor S/o Surendra Kumar Kapoor, Age 59, Occ: Service, working as 'Sr.Vice-President' with Respondent No. 5 M/s Radico NV Distilleries Maharashtra Ltd. (hereafter referred to as "Respondent" in this affidavit). I have knowledge from records and facts and authority to file this affidavit in reply.

2. The various averments made in the Original Application Nos. 03, 53, 79/2023 (WZ) are totally baseless, false, fabricated and imaginary. Respondent categorically and specifically denies all averments, allegations, and statements made. Since all the averments are totally false, the total blanket denial is the only thing that can be done, and is hereby done by the respondent. Nothing shall be construed to have been accepted simply because point-wise reply is not given.

3. The entire allegations by applicants are on the basis of total imagination and hypothesis by the applicants,

for which there is no iota of truth in it. There seems to an angle of enmity of the applicant with the neighbouring farmer, intention of usurping the land and caste hatred – as alleged and stated in his own statement/complaint. **[OA 03/2023(WZ) Ax. A-15 Page 161 Para 1 of the letter dated 25/10/2018]**. In the English translation, the exact words are NOT translated and included. Respondent states that the complaint is of the applicant neighbour that his Gut is deliberately spoiled by his neighbour, by being jealous as he got the pipeline connection of water. There is also an allegation in complaint of the nature that that this is done with ulterior motive of usurping the land with wicked intension and caste animosity'. As such this seem to be the fight between the neighbours and respondent is unnecessarily dragged in to it.

4. The application is nothing but 'tissues of lies'. Disputed question of facts, applicant must prove before this Hon'ble Tribunal all the facts. Full dress hearing as such oral evidence, cross examination, documents needs to be proved, all allegations are required to be proved up to entire satisfaction of this Tribunal.

5. The company has installed 'Effluent Treatment Plant' by spending more than Rs.120 Crores, as per the guidelines issued by the Maharashtra Pollution Control Board as well Environment authorities.

6. There is zero discharge of treated effluent from the factory/plant, even if any effluent is generated, the

same is re-used for manufacturing of fertilizers, for which license is granted by the authorities of Agricultural Department in favour of the company. The fertilizer manufacturing unit Village Taklimali is 20 km away from the Respondent No. 5 Shendra MIDC area and whatever effluent is generated, is utilized 100% for manufacturing of the fertilizers. These fertilizers are utilized by the various farmers in their field/lands and they are getting returns in the form of good crops.

7. The distance of alleged place of incidence is 60 km away, from Respondent's (Radico Shendra MIDC) industry and it is practically very difficult and economically unviable to dispose effluent at Gut No. 144. Of Village Pathri Tq. Phulambri.

8. There is serious disputed question of fact is involved in the proceeding, therefore this controversy cannot be resolve summarily unless, parties are directed to give strict and cogent evidences to prove their alleged allegations in the proceeding against the company for establishing these allegations.

9. This matter was thoroughly investigated by the concerned police authority and thereafter filed the charge-sheet, they have also recorded the statements of the company's officers/managers and also examined the entire record of the company, wherein they have found that, there is no involvement of the present company, in the alleged allegations made by the applicant against the company

and police authority have filed charge-sheet, in which there is no whisper about the involvement of the company for discharging the effluent and polluting the environment, in the field of the applicant as it has been alleged by them.

10. The committee appointed by this Hon'ble Tribunal, has examined pros and cause and they have also recorded in their findings, there is no strict/cogent evidence is available before them, for coming to the conclusion that, involvement of Radico company is there or not.

11. The said appointed JC has suggested that, to give compensation to Mr. Pathrikar, who is not applicant before this Hon'ble Tribunal/Court. It is the contention of the said JC that his land is damaged therefore compensation of Rs.22.00 lakhs to be given to in addition to damage to crop. Whereas these Respondents 6 and 7 have not raised any such claim at all.

12. Respondent states that they have not /disposed / poured any spent wash / sludge / fertilizer or anything from their industry on any outside Gut and so also on the Gut No. 144, anytime in the past. The location of the Gut No. 144 is about 60 km by road and 46-48 km from Shendra MIDC & 62 to 63 km from fertiliser Unit Taklimalii village, aerial distance from the industry. The tanker load will be quantity of about 10 m³ or about 10 MT of the material. 1000 tankers means the quantity of about 10,000 m³ or 10,000 MT of the material. There is no

evidence whatsoever of such huge movement of material, in any form.

13. Respondent states that there is no evidence to link the industry to these allegations of disposal on Gut No. 144. There is no third party or an independent eye witness, there is no number of the tanker linking it to respondent and Gut no. 144. No delivery challan, no photo, no direction, receipt of payment etc. **any evidence which will link the allegation to the respondent and can be proved.** The FIR have been lodged in the past, but even then, after detailed Police enquiry, there is no evidence on record to show that respondent is linked to this even in any manner. All the statements are of the applicants only before various authorities.

14. The very same fraudulent complaint can be made without changing the text, by the Respondent No. 6 and 7 against all the applicants. They could have said that the applicants have disposed of 1000 tankers in their farm Gut no. 143 and hence their Gut no. 144 is affected.

15. MPCB in the past did issue a Show Cause Notice (SCN) dated 11/09/2018 to which industry replied on 21/09/2018. MPCB did direct the industry to shift the soil that too industry did. Industry then and there had denied the responsibility, indulgence, involvement or any linkage to these wild imaginary allegations.

16. Respondent states that however, the MPCB officials persuaded the industry to bear the expenses as

CSR or assistance and treat the soil in its composting plant facility. Further MPCB showed that they have authority to issue directions to “any person” and as such at that point of time, industry did help by shifting the soil as per directed dated 25/08/2018, though on “no fault basis”. No penalty was imposed on the industry. **Now, hereafter in future, industry shall be afraid of even cooperating in such assistance missions,** as this is being taken as involvement in act of pollution.

17. Respondent states that there is no evidence to show that any spent wash / sludge / fertilizer or anything was ever dropped on Gut No. 144 by anyone. The increase in BOD/COD values appears to be too minute with such heavy dosing on Gut No. 144. With land disposal of 10,000 m³ of spent wash or sludge.

18. Respondent states that the BOD/COD of the spent wash or sludge will be much higher at about 50,000/1,90,000 mg/L. If such a huge BOD/COD waste of the quantity 10,000 m³ would have been disposed on the Gut No. 144, then the ground water contamination should have been 1000 times more than this.

19. Respondent states that groundwater in this region is anyway highly contaminated due to excess use of fertilizers, pesticides that are sprayed and used on the farms. These get washed and percolate and then keep on recycling in that farm from surface to ground water and then again to surface during the 2nd crop watering for

irrigation. Dilution will be there due to rain water but still the cumulative quantity will remain as it is in the ground water.

20. Respondent states that that the applicants do agricultural farms on their land (various Guts as mentioned by them in their application). Joint Committee (JC) has not taken stock or list of the consumption of the pesticides and fertilizers used by the applicants and applied on their land.

21. Respondent states that applicants have failed to show any tangible, concrete, scientific, substantial correlation or privity or link or cause–effect in the wild allegations with the respondent industry.

22. Respondent is not aware, concerned related to what has happened on Gut No. 144. It is between the Applicants and the alleged Gut No. 144 against whom to there seems to be no evidence at all.

23. Respondent states that JC has also not supported or established any connect between the alleged incidence and respondent. The name of the respondent industry has been stated by applicant without any evidence whatsoever.

24. The JC has computed the damage to environment. Without going in to whether the amount is right or wrong, at this stage, who has to pay it, will have to be first ascertained. The respondent for sure has not done it. There is nothing to show on record that respondent has ever discharged the alleged spent-wash/sludge anywhere.

25. The JC has taken incorrect reference standards for drawing conclusion as to whether the water is “polluted by the respondent”. The comparison and study can only determines the quality of water. But it has NOT correlated it to the respondent at all. Further when both the Guts 143 and 144 are polluted, how JC has arrived at conclusion as to which Gut has polluted the other one, is not clear. In fact, the Gut which is polluted and the owner knows that he has done pollution will be having ample time of last 5 years to clean his own land; and then complain about the neighbour that he has polluted his Gut. JC has not attempted it and hence JC Report can’t be relied for determining as to who OR which Gut is the first to get polluted, assuming the possibility that he has chance to clean it OR depending on the slope in the area. Down-stream Gut will get polluted. There is no mention as to which Gut is at higher level and whether water can freely flow from one Gut to other.

26. The deterioration in the ground water quality, soil quality would be attributable to so many things without any evidence that could be substantiated. The applicant himself may spoil his water, soil and make allegation against anyone. Respondent industry can’t imagine that any land owner that too so far away would make allegation against them to this effect.

27. Respondent states that these allegations are also not direct allegation also. The sum and substance of the allegation is that respondent industry has disposed of spent wash and/or sludge on the Gut No. 144. The owner

of the Gut, where it is alleged to have been disposed of has no complaint of the damage to his land.

28. Respondent states that all allegations and statements attached are of the applicant against the Gut No. 144 and respondents related to the neighbouring Gut owners arrayed by them as Respondent No. 6 to 21. The evidence mentioned are only the complaints filed by applicants and statements given by applicant.

29. Respondent states that they can't comment really on the other evidence put forward by the applicants. Respondent states that applicants themselves must have contaminated the well water / ground water and their farms with use of cheap dubious fertilizer, compost etc. and are trying to frame the neighbours and the respondents. Respondents state that they have no linkage, connection, relationship, to the allegations made by applicants.

30. Respondent states that no tankers ever has discharged any effluent (treated or untreated) and was given to anyone with tankers. The sludge is treated in compost plant and used in their own farm-lands.

31. Respondent states that it has its own ETP and complete treatment facilities. Industry is ZLD and as such no effluent is let out OR required to be let out. Industry doesn't discharge any effluent anywhere and as such there is no question of sending such a huge quantity of effluent anywhere.

32. LIMITATION: The alleged incidence/s are stated to have the above alleged incidences have happened during the period from January to June 2018. The application/petition is hopelessly barred by the limitation, and hence not maintainable. No application has been filed before Hon'ble Tribunal within a limitation period of six months till 20/12/2022. In these OA also, no Form-II has been filed giving detailed information about the damage to applicants for which compensation is being sought. No court fees have been paid.

OA 03/2023(WZ) Page 50: Point No.21: LIMITATION: The original application is within limitation of 5 years from the date of last cause of action occurred in June-2018. The dates of incidents have been stated in paragraph No.12.3. Therefore, the present original application is maintainable under section-15 of the NGT Act, 2010.

33. In light of the above submissions, respondent prays that no adverse order shall be passed against the respondent and all the OA should be disposed of as there is absolutely any evidence whatever to prove as to who have polluted and what is the source of pollution.

AND for this act of kindness, the Respondent as duty bound shall ever pray.

Authorised Signatory

Date :	21-Nov-23	Ashish S/o Surendra Kumar Kapoor
Place :	Pune	Respondent No. 5 - M/s Radico NV Distilleries Maharashtra Ltd.

VERIFICATION AND AFFIDAVIT

I, Ashish Kapoor S/o Surendra Kumar Kapoor, Age 59, Occ: Service, working as 'Sr.Vice-President', have verified the contents of the above submission. The facts stated are true and correct to the best of my knowledge. I have not suppressed any relevant material facts. The affidavit is being submitted after due verification, on solemn affirmation and oath.

Being signed on Tuesday, 21 November 2023 at Pune.

FOR Radico NV Distilleries Maharashtra Ltd.

Authorized Signatory



Date :	21-Nov-23	Ashish S/o Surendra Kumar Kapoor
Place :	Pune	For Respondent No.5 - M/s Radico NV Distilleries Maharashtra Ltd.



AFFIDAVIT

I, Ashish S/o Surendra Kumar Kapoor
 Aged 59 yrs Occ Service
 R/o Sulsiyani Chowk, Aurangabad

Do Hereby State On Oath That The Contents
 Of Documents are true and correct to the Best
 Of my knowledge & belief

Hence verified on 22nd Nov 2023
 at Aurangabad.

Adv. Vilas M. Dhamne
 Notary Govt. of India
 Reg. No. 15064, Aurangabad.
 Mob. 9422207134/8551080831

IDENTIFIED & DRAFTED
 BY MR. Gangire v. 7.



Proof of Service

raghunath mahabal <adv.rbmahabal@gmail.com>

NGT OA 03/2023(WZ), OA 53/2023(WZ) & OA 79/2023(WZ) Sandip Jadhav Vs SoM : Next Date: 24/11/2023 : Combined Affidavit by R5

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22 November 2023 at 16:50

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I am pleased to circulate the submissions as above under the subject.

Regards

Dhananjay Chavan 7038383654

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