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SR. No. A./32.../2024

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

H. K. JAIN
NOTARY
GOVT. OF INDIA

ORIGINAL APPLICATION NO. 136 OF 2020

Veterans Forum for Transparency in Public Life

4 JAN 2021
... Applicant

Versus

State of Himachal Pradesh and others

... Respondents

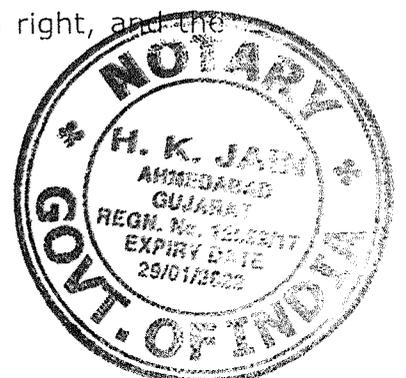
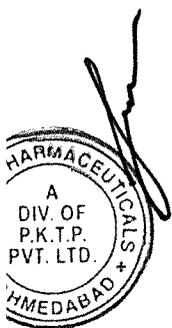
**COUNTER AFFIDAVIT IN REPLY ON BEHALF OF HELIOS
PHARMACETUTICALS (A Division of Parbhudas Kishordas
Tobacco Products Private Limited)**

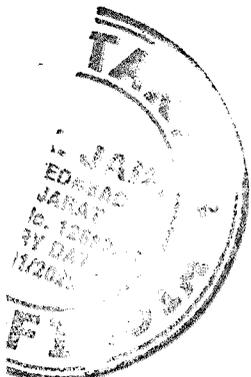
I, Saumin Patel, Director of Helios Pharmaceuticals, having factory address at: Village Malpur, Post Office : BHUD, District Solan, Himachal Pradesh and having office address at: "Helios House", 659/1 Gulbai Tekra, Panchvati 2nd Lane, Ambawadi, Ahmedabad do hereby solemnly affirm and state on oath in reply to the aforesaid Writ Petition, as under:

1. I state that I am serving as Director with the Helios Pharmaceuticals (A Division of Parbhudas Kishordas Tobacco Products Private Limited). I have read the copy of the application and have perused all the relevant records pertaining to the same and being conversant with the facts and circumstances of the case. I am competent as well as authorized to swear and file the present affidavit-in-reply on behalf of the Company – Helios Pharmaceuticals (A Division of Parbhudas Kishordas Tobacco Products Private Limited). **(For Short "the Company")**.

2. Before proceeding further, I may respectfully state that ordinarily before examining a litigation in public interest, this Hon'ble Tribunal would like to be satisfied:

(i) that the impugned action is violative of any of the rights enshrined in Part III of the Constitution of India or any other legal right, and the relief is sought for its enforcement;





(ii) that such person are not meddlesome interlopers and have not approached with malafide intention of vindicating their personal interest, or vengeance or grievance;

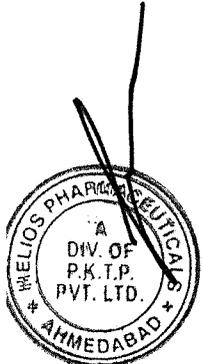
(iii) that the process of writ jurisdiction is not being abused by writ petitioner for unrelated objective, since every default on the part of State or Public Authority will not, per se, be justiciable in such litigation.

(iv) that the person approaching the court has come with clean hands, clean heart and clean objective. Therefore, before taking any action in the present litigation, the Hon'ble Court would like to be satisfied that the forum is not being misused by any unscrupulous litigant or a person with malafide objective for either, vindication of their personal grievances or resorting to blackmail for considerations extraneous to public interest.

The captioned petition deserves to be summarily dismissed, since none of the aforesaid tests stands satisfied in the present case.

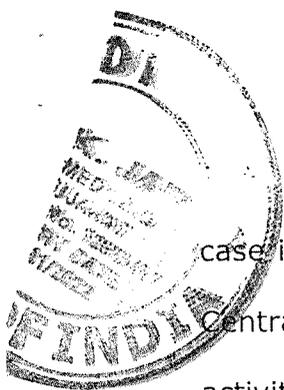
3. Before dealing with various allegations and averments contained in the captioned Writ Petition, I set out hereunder, a few points of facts.

3.1 I may put on record and state that the Company is incorporated under the provisions of the Companies Act, 1956 and engaged in the business of manufacturing drug and having factory premises at village Malpur, P.O. BHUD, District Solan. The Company is running their unit at the above address since 2006.



3.2 I may put on record and state that the Company is registered with the Himachal Pradesh Pollution Control Board since its inception and the production/ manufacturing activities are registered with Himachal Pradesh Pollution Control Board under the category Drug Manufacturer. The Himachal Pradesh Pollution Control Board has issued certificate of registration in favor of the Company.

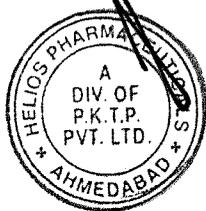
3.3 I may put on record and state that the Company is engaged in manufacturing activities since 2006, and has always abided by the Rules and Regulations enacted and framed by the Himachal Pradesh Pollution Control Board or the Central Pollution Control Board from time to time. No adverse



case is yet registered either by Himachal Pradesh Pollution Control Board or Central Pollution Control Board against the production / manufacturing activities of the Company, much less neither the Himachal Pradesh Pollution Control Board or Central Pollution Control Board has never charged the Company qua for polluting the environment and/or surrounding area with hazardous influents/ discharging untreated waste water in to river – "Sirsa".

3.4 For the first time the unit has been served with Show cause notice from Himachal Pradesh State Pollution Control Board on 17-03-2020. The company immediately replied to the Show Cause Notice issued by Himachal Pradesh State Pollution Control Board on 23-03-2020. Thereafter Himachal Pradesh State Pollution Control Board had taken our reply on record and considered the explanation rendered thereunder. After investigation, due inquiries, due deliberations and verification, The Himachal Pradesh Pollution Control Board found the reply and explanation submitted by the Company satisfactory; leading to no further action has been initiated thereafter by the Himachal Pradesh Pollution Control Board qua the notice impugned dated March 17 2020 and closed the notice. The Himachal Pradesh State Pollution control Board has not found any adverse against the company during their investigation/ inspection and therefore, the Himachal Pradesh Control Board has not proposed any further action against the Company thereafter qua the notice impugned dated March 17 2020 nor proceeded further in the subject matter of notice dated March 17 2020 thereafter, hence, the allegation made by the Organization against the Company are baseless, meritless and uncalled for as the Statutory Authority under the Environment (Protection) Act, 1886 and the Water (Prevention and Control of Pollution) Act, 1974 has not found any thing adverse against the Company qua the alleged so called violation and/or breach mentioned in the notice.

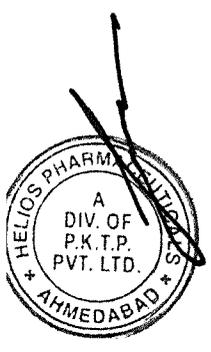
3.5 Needless to state that no such incident was received or reported either with Himachal Pradesh Pollution Control Board or Central Pollution Control Board about continuous discharge of untreated water and Chemical waste in river "Sirsa". Much less no case is registered for the offence of discharging



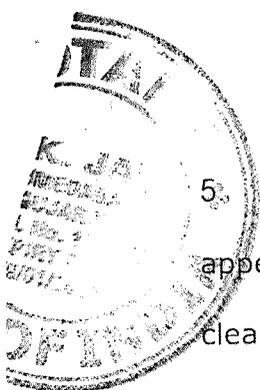


untreated water and chemical waste by Himachal Pradesh Pollution Control Board or Central Pollution Control Board up till now and therefore, whether the company would be permitted to run its production activities does not arise nor a question of paying any adequate compensation for damaging the environment and/or running /following waters of the Rivers "Sirsa" and "Sutlaj" as alleged by the Organization.

3.6 From the records, it appears that the Organization has completely failed to establish and prove from the averments contended and raised in the memo of the Original Application No. 136 of 2020 by producing and placing the evidences suggesting /showing that the Company is continuously discharging its untreated water, chemical waste and untreated highly toxic and medicine waste. However, except bare allegations against the company no concrete material has been produced or placed on record with concrete proof of evidence on records of the Original Application No. 136 of 2020 is placed by the Organization and in absence thereof, nothing is required to be done and Hon'ble Tribunal may not entertain the present Original Application No. 136 of 2020 qua the Company.



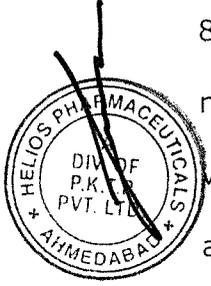
4. In the backdrop of the aforesaid factual aspects, needless to mention that after verifying the records that there is a sewage system placed in Barotiwala, Baddi, Nalagarh area. Therefore, there is no question of waste water of industrial /domestic is drained in river "Sirsa" as alleged through open channel. There is a full-fledged Common Effluent Treatment Plant commissioned at Baddi The Company has Effluent Treatment Plant at its premises, where primary treatment of effluent is done and further relies to Common Effluent Treatment Plant. The Company is also connected with Common Effluent Treatment plant and therefore, no question of discharging untreated water. Chemical waste, untreated highly toxic and medicine waste in to the rivers "Sirsa" or "Sutlaj". Even Company is regularly receiving the bills from Common Effluent Treatment Plant for all the treatments undertaken by Common Effluent Treatment Plant for and on behalf of the Company.



5. In the backdrop of the aforesaid factual aspects, on verification of file it appears that the Organization have not approached this Hon'ble Tribunal with clean hands or with clean intention.

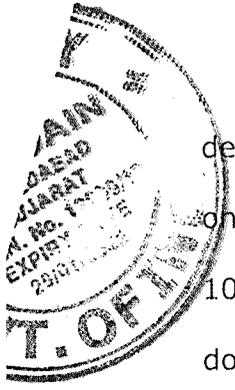
6. In backdrop of the aforesaid factual aspects only on the basis of some media reports of "Tribune" Chandigarh edition reporting an incident of dumping untreated toxic ridden Industrial Effluent by the Company through the tanker, and on the basis of this report the Organization has blamed the company for polluting the environment/water of river. Indeed, in the statement to the media, the Member Secretary, Himachal Pradesh Pollution Control Board has stated that on preliminary inquiry this facts have been emerge, but full detailed investigation will be done. However, the Company has no personal knowledge of such incident taking place at the factory premises. It is reiterated that company is connected with Common Effluent Treatment Plant and all the waste all kind and untreated water was treated at Common Effluent Treatment Plant.

7. I may place it on record and state that the there is no major complaint/case of violation /continuous violation, violating The Environment(Protection) Act, 1986 law and/or violation under the Water (prevention & Control of Pollution) Act, 1974 was registered against company by the Himachal Pradesh Pollution Control Board or Central Pollution Control Board.



8. In furtherance of what is stated herein above, and admittedly there is no concrete evidence placed on records of the present proceedings for any violation under environment laws or under the water laws, 1974 registered against the Company, the National Green Tribunal, Principal Bench, New Delhi, is not required to entertain the Original Application No. 136 of 2020 qua the Company Respondent No. 6 in the present proceedings much less not required to impose and/or award any suitable environment compensation for causing damage and contaminate the water quality and aquatic life of river "Sirsa" as nothing is registered against the Company by the Himachal Pradesh Pollution Control Board.

9. I respectfully say that various grounds raised in the captioned application against the Company are devoid of any substance and hence,



deserve to be completely discarded. I do not admit that there was any inaction on the part of the Company, as alleged.

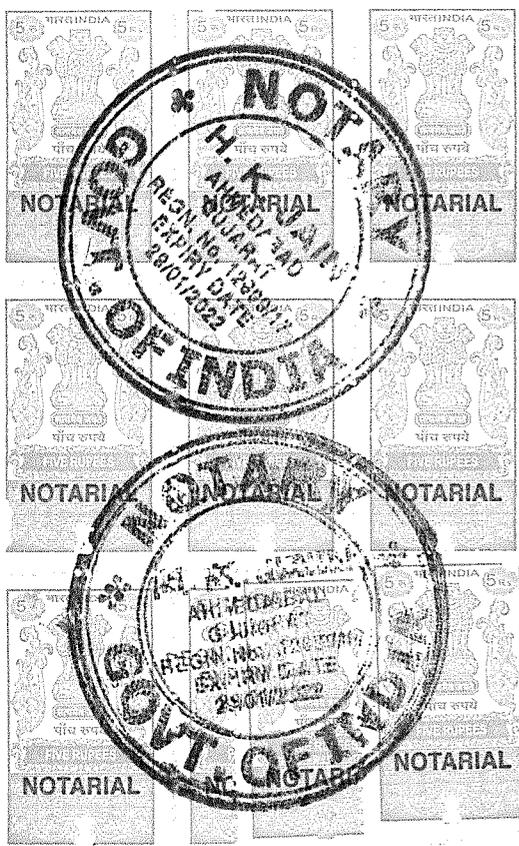
10. In view of the aforesaid facts and circumstances the present proceedings does not warrant any interference by this Hon'ble National Green Tribunal and therefore, for the abovementioned reasons alone, the present application deserves to be rejected and closed.

What is stated hereinabove is true to the best of my knowledge, and information derived from record and I believe the same to be true.

Solemnly affirmed at Ahmedabad on this 04th day of January, 2021.



[Handwritten Signature]
DEPONENT



ATTESTED BY ME

[Handwritten Signature]
H. K. JAIN
NOTARY
GOVT. OF INDIA

4 JAN 2021

