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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

1. CIKAUTXO INDIA PVT LTD - RESPONDENTS

AND OTHERS

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Pune

Dated: 12th September, 2024

Deepti.

DEEPTI MAHURKAR
Advocate for the Applicant

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FINAL WRITTEN NOTES OF ARGUMENTS

FINAL WRITTEN NOTES OF ARGUMENTS FILED ON BEHALF OF THE EXECUTANT- APPLICANT, IN THE EXECUTION APPLICATION NO.10/2022 (WZ), IS AS FOLLOWS –

1. 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. [Annexure '**A-1**' (Page No.14) is the copy of Original Application No. 69/2021].

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**' (Page No.29) is the copy of order dated 1st October, 2021, passed by this Hon'ble Tribunal in Original Application No. 69/2021].

3. That the Joint Inspection Committee of Respondent No.9 i.e. Member Secretary, Maharashtra Pollution 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**' (Page No.31) is the copy of factual and action report dated 25th November, 2011, 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, 2011, in the original application 69/2021 (WZ), in compliance of the order dated 1st October, 2021, passed by this Hon'ble Tribunal. [Annexure '**A-4**'(Page No.37) is the copy of Affidavit-In-Reply dated 16th January, 2022, filed by the Applicant in Original Application No. 69/2021, in response to factual and action report dated 25th November, 2011].

5. That this Hon'ble Tribunal after hearing and perusal of supported documents, vide its order dated 17th January, 2022, [Annexure '**A-5**' (Page No.46) is the copy of order dated 17th January, 2022, passed by this Hon'ble Tribunal, in Original Application No. 69/2021], was pleased to issues following directions –

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 till date has failed 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, 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.

8. It is evident from the act and action of state PCB that they are probably do not have essential expertise or do not wish to do the 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, after giving opportunity of being heard to the PP. The MOEFCC has also given essential guidelines for the assessment of Environmental Damages by considering but not limited to following issues –

- Air Environment
- Water Environment
- Noise Environment
- Land Environment
- Ecological Environment
- Socio-economic Environment
- Forest and ecological environment
- The impact of pollution on livestock and other flora and fauna etc.

ARGUMENTS IN RESPECT OF COMPENSATION TO STATE

9. Assessment of Environmental Compensation by State PCB: Respondent Nos. 9 and 10, representing the Maharashtra Pollution Control Board (MPCB), filed their Reply-Affidavit on 09th February, 2023 (Page Nos.105 to 115) concerning the assessment of Environmental Compensation. The Respondents' assessment

methodology aligns with the Central Pollution Control Board (CPCB) guidelines, as confirmed by the Hon'ble National Green Tribunal (NGT) in O.A. 593/2017, Paryavaran Suraksha Samiti v. UOI, dated 28th August 2019.

10. Discrepancies in Violation Dates: In their Reply-Affidavit dated 09th February, 2023 (Page Nos. 105 to 115) the Respondent Nos. 9 and 10 utilized the date of 26th November 2019 as the starting point for assessing violations and this starting date is contested by the Applicant. That Annexure 'A-3', (Page No.31 to 36) a report filed by MPCB in compliance with the NGT order dated 01st October 2021, confirms the Applicant's complaint dated 29th March 2019 regarding the deposition of carbon particles in the cattle shed. Subsequent to this complaint, MPCB officials conducted a surprise inspection of Respondent No. 1's industry on 01st April 2019, observing carbon particles at various locations on the Applicant's premises. The consent to operate for Respondent No. 1 was issued on 28th September 2015, (Annexure A-7, Page No.191) allowing the use of 2000 litres of furnace oil per day, a major pollutant. Therefore, the proper starting point for calculating the number of days of violation should be 28th September 2015 (which is the date of consent to operate) in accordance with the **Environment (Protection) Act, 1986**, and the principles established therein.

11. Verification of Compliance: The Reply-Affidavit dated 09th February, 2023 (Page Nos. 105 to 115) mentions that compliance was verified on 25th May 2021, which is disputed by the Applicant. The visit report from 24th November 2021, (Exhibit-B, Page Nos.83 to 84, of Compilation) submitted in Original Application No. 69/2021, indicates that the Respondent No. 1 industry had not fully complied with conditions by that date. Specifically, clause No. 4 of the visit report dated 24th November, 2021, (Annexure-B, Page Nos.83

and 84) shows the industry's commitment to installing a sewage treatment plant by December 2021, indicating ongoing non-compliance.

12. **Use of Furnace Oil Post-Claim**: The visit report dated 24th November 2021, (Exhibit-B, Page Nos.83 to 84, of Compilation), also notes that the industry claimed to have stopped using furnace oil as of June 2021. However, the consent to operate dated 20th September, 2021 (Exhibit-C, Page Nos.88 to 93, of the compilation) still permitted the use of 1450 litres of furnace oil per day. This contradiction suggests that the industry continued to use furnace oil despite the claims of discontinuation. This discrepancy calls for a thorough review under the **Air (Prevention and Control of Pollution) Act, 1981**, and the **Environment (Protection) Act, 1986**, to address the validity of the consent issued and the ongoing pollution. That please take a note that till date consent to operate dated 20th September, 2021 (Exhibit-C, Page Nos.88 to 93, of the compilation) has not been modified by the State PCB and most importantly, the Respondent Nos. 1 to 6 have also not take any pains to modify 20th September, 2021 (Exhibit-C, Page Nos.88 to 93, of the compilation), regarding use of furnace oil as fuel and this fact is also sufficient to prove hand-in-glove of the Respondent Nos. 1 to 6 with the officials of State PCB.

13. **Modification of Consent and Calculation of Violation Days**: For the accurate calculation of the number of days of violation, Respondent Nos. 9 and 10 should consider 28th September 2015, the date of consent to operate, as the starting point, with the end date being the date of the final order in the present execution application. Additionally, directions should be issued to Respondent Nos. 9 and 10 to modify the terms of the consent to operate dated 28th September 2021, to prohibit the use of furnace oil, thereby mitigating

the pollution in accordance with the **Environment (Protection) Act, 1986**, and relevant judicial precedents.

14. That further, Location Factor (LF) is based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used:

Location Factor Values

Sr. No.	**Population* (million)**	**Location Factor# (LF)**
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

**Population of the city/town as per the latest Census of India*

#LF will be 1.0 in case unit is located >10km from municipal boundary LF is presumed as 1 for city/town having population less than one million.

That the location of the Respondent No.1 Industry is located within 10 KM from Municipal Boundary and therefore, LF has to be considered as 1.25 as per above chart.

That, the population of the Talegaon-Dabhade may be less than 1 million, but Talegaon-Dhabhade is situated within the 10 Km distance from the highly populated Pimpri Chinchwad Municipal Corporation area and therefore, Location Factor needs to be considered as 1.25.

15. 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 –

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 and till date the Respondent No.1 Industry is using Furnace Oil. Still for calculation considered Date fixed by this Hon'ble Tribunal for hearing	12/09/2024
		Total Number of days of violation	3273
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 than5= 1.25 5 to less than 10 = 1.5 10 and above =2)	1.25
	Environment compensation	**EC = PI x N x R x S x LF** **EC=50x3273x250x1.5x1.25**	**7,67,10,937.5**

That therefore, environmental assessment is to the tune of **Rs. 7,67,10,937.5/-** from **28th September, 2015 till 12th September, 2024**. That therefore, the Respondent No.1 Industry needs to be directed to pay an amount of **Rs.7,67,10,937.5/-** to the State in addition to personal compensation as claimed by the Applicant and that too along with interest.

ARGUMENTS IN RESPECT OF COMPENSATION TO THE APPLICANT

16. It is respectfully submitted that there should be no inconsistency or discrimination in the assessment and award of environmental compensation between the State and the Applicant. The methodology for determining Environmental Compensation, as prescribed by the State Pollution Control Board (PCB), based on the guidelines issued by the Central Pollution Control Board (CPCB), and affirmed by the Hon'ble National Green Tribunal (NGT) in O.A. 593/2017, *Paryavaran Suraksha Samiti vs. Union of India & Others*, dated 28th August 2019, must be uniformly applied to the Applicant. The principles of natural justice, as enshrined under Article 14 of the Constitution of India, mandate equal treatment in the assessment of compensation. The Applicant, who has brought forth the issue of pollution, is entitled to the same standards and measures of compensation as the State, without prejudice or differential treatment.

17. **Bias in Assessing Compensation Methodology**: Despite initially not claiming compensation, the MPCB demanded Rs. 1,02,56,250/- in its Reply-Affidavit dated 7th February 2023 (Pages 105-109), calculated using the **CPCB methodology**, as affirmed by the Hon'ble NGT in **O.A. No. 593/2017**. The Applicant submits that compensation must be determined uniformly using the same

formula, and any denial of this would be discriminatory, violating Article 14** of the Constitution.

18. The Applicant respectfully submits that, by order dated 08th February 2023, passed in the present Execution Application, this Hon'ble Tribunal provided the Executant-Applicant a final opportunity to present his own assessment of personal loss, in order to claim compensation from the Project Proponents (Respondents Nos. 1 to 8), subject to the payment of court fees and submission of Form No. II. In compliance with the said order, the Executant-Applicant has duly submitted Form No. II and paid the requisite court fees, as per the provisions of the National Green Tribunal Act, 2010 and the National Green Tribunal (Practices and Procedures) Rules, for claiming personal compensation.

19. The Applicant further submits that he has engaged Dr. Rahul Ramesh Mungikar, M.Sc. (Environmental Science), Ph.D. in Ecological Studies, and Member of the Expert Appraisal Committee - Industry 2, Ministry of Environment, Forest, and Climate Change, Government of India, to conduct a realistic assessment of the personal losses sustained by the Applicant. This assessment pertains to the loss caused to the Applicant's cattle, mango orchard, other trees, equipment, plant, machinery, and the consequent loss of ancillary livelihood activities dependent on the cattle farm and orchard.

20. Based on the assessment report prepared by Dr. Rahul Ramesh Mungikar, [Annexure 'A6' assessment report, Page Nos. 130 to 171 of the compilation], the total loss suffered by the Applicant due to the pollution caused by the release of hot carbon soot, air pollution, and untreated industrial wastewater amounts to Rs. 3,10,41,600/-, (Three Crore, Ten Lakhs, Fourty One Thousands and

Six Hundred Only). That the Applicant in his Form No. II (Page Nos. 117 to 128), has claimed an amount of Rs. 3,20,91,600/-, (Three Crore, Twenty Lakhs, Ninety One Thousands and Six Hundred Only), which include an amount of Rs. 3,10,41,600/-, (Rupees Three Crore, Ten Lakhs, Forty One Thousands and Six Hundred Only), as determined by Dr. Rahul Ramesh Mungikar + Expert Remuneration of Rs.50,000/- (Rupees Fifty Thousand Only) + Compensation for Mental Harassment of Rs.10,00,000/- (Rupees Ten Lakhs only). The Applicant has paid appropriate court fees on the assessed amount of Rs. 3,20,91,600/-, (Three Crore, Twenty Lakhs, Ninety One Thousands and Six Hundred Only).

21. In light of the continuous and ongoing damage caused by the pollution emitted by Respondent No. 1 to the Applicant, it is just, fair, and equitable that the Applicant be awarded the sum of Rs. 3,20,91,600/-, (Three Crore, Twenty Lakhs, Ninety One Thousands and Six Hundred Only) as compensation for the losses incurred along with compensation for mental harassment. The said amount reflects the extensive damage caused to the Applicant's property, livestock, and livelihood, as well as the violation of environmental laws by Respondent No. 1.

The Executant-Applicant has quantified the personal compensation sought to the extent of Rs. 3,20,91,600/-, (Three Crore, Twenty Lakhs, Ninety One Thousands and Six Hundred Only), including the fees payable to the appointed expert and the compensation for mental agony, based on the assessment report prepared by Dr. Rahul Ramesh Mungikar, annexed herewith as Annexure A-6 [Page Nos. 130 to 171 of the compilation]. Consequently, the Hon'ble National Green Tribunal (Western Zone), Pune, vide its order dated 22nd March 2023 in E.A. No. 10/2022, considered it appropriate to constitute a

joint verification committee for the purpose of verifying the claim of personal compensation, comprising of:

(i) A Member from the Central Pollution Control Board (CPCB);
(ii) Secretary, Department of Animal Husbandry; and
(iii) A representative from the Maharashtra Pollution Control Board (MPCB),

22. Compliance with Tribunal Directions: Furthermore, the Hon'ble National Green Tribunal (Western Zone), Pune, in paragraph 15 of its order dated 22nd March 2023, in Execution Application No. 10/2022, directed the Applicant to furnish necessary documents, including copies of the original applications and related documents, within three days from the date of the order. In compliance, the Applicant promptly submitted all relevant materials, including those relating to Original Application No. 69/2021 and Execution Application No. 10/2022, as well as interim applications, replies, rejoinders, affidavits, annexures, and all orders passed by this Hon'ble Tribunal, to the members of the committee.

23. Objections to Committee Report: On 14th August 2023, the joint committee, constituted by the Hon'ble Tribunal, through Respondents Nos. 9 and 10, submitted its report, which is at Page Nos.270 to 382. The Executant-Applicant, upon identifying discrepancies in the findings, raised objections by filing an Affidavit-in-Reply, dated 06th February 2024, along with specific objections (Page Nos. 460 to 480). These objections are rooted in the **audi alteram partem** principle, seeking a fair reassessment of the Applicant's claims in light of the contradictions found in the joint committee's report.

24. Superficial Nature of Joint Committee Report: The Applicant submits that the report of the Joint Committee, which is at Page Nos.270 to 382, is superficial, unscientific, and misleading, with representations that contradict the factual evidence. Although the committee acknowledges environmental violations and pollution caused by Respondent No. 1 Industry, its conclusions are contradictory and evasive. This failure to provide a fair and reasoned conclusion violates the principles of **natural justice** and **audi alteram partem**, enshrined under **Article 14** of the Constitution. The Applicant has been compelled to approach various authorities in seeking justice for the environmental damage, including the loss of cattle and trees, which is directly attributable to the industry's pollution.

25. Failure to Consider Key Reports: The Joint Committee neglected to consider the report of the Respondents Nos. 9 and 10, dated 25th November 2023 (Annexure A-3, Page Nos.31 to 36), particularly Clause (j), which notes that officials of the Maharashtra Pollution Control Board (MPCB) conducted stack and ambient air quality monitoring at the Respondent No. 1 Industry and submitted samples to the MPCB Regional Laboratory, Pune. Despite the visit on 24th November 2021, the MPCB has yet to file the analysis report. This omission by the Joint Committee raises serious concerns about the impartiality of its report, as mandated under the **Air (Prevention and Control of Pollution) Act, 1981.

26. Failure to Address Fuel Use and Environmental Standards: The Joint Committee, during its visit to the Respondent No. 1 Industry, noted the use of LPG as fuel but failed to address the fact that, under the **Consent to Operate** dated 29th September 2021 (Exhibit-C, Page Nos. 88 to 93), Respondent No. 1 Industry was also permitted to use Furnace Oil and High-Speed Diesel (HSD). This

is in direct contradiction to the Hon'ble National Green Tribunal's order in **O.A. No. 67/2019** (dated 17th March 2021), where it was held that the use of Furnace Oil and Petcoke is prohibited based on the **Precautionary Principle** and **Sustainable Development Principle**, both recognized under the **National Green Tribunal Act, 2010**. The MPCB's order dated 03rd November 2023, (Annexure A-17, Page Nos.479 to 480) banning Furnace Oil for certain industries, further underscores this inconsistency, which the Joint Committee failed to address.

27. The Applicant respectfully submits that, despite the Maharashtra Pollution Control Board (MPCB) enacting stringent policies prohibiting the use of Petcoke and Furnace Oil as industrial fuels due to their detrimental environmental impact, it has, in violation of these very policies, granted consent to operate to Respondent No. 1 industry, permitting the use of Furnace Oil as fuel up to 1450 CMD (Cubic Meters per Day). This consent, granted by the MPCB, is in direct contravention of its own guidelines, which are aimed at phasing out the use of such environmentally harmful fuels. Furthermore, the granting of this consent is in clear violation of the directions issued by the Hon'ble National Green Tribunal regarding the use of Furnace Oil. This contradictory action by the MPCB, in favor of Respondent No. 1, strongly suggests collusion between the officials of the MPCB and the officials of Respondent No. 1 industry, undermining the very purpose of the environmental regulations.

28. **MPCB's Policy on Petcoke and Furnace Oil**: It is well-established that the MPCB, in compliance with the directives of the Hon'ble National Green Tribunal (NGT) and the Hon'ble Supreme Court, has issued guidelines restricting the use of Petcoke and Furnace Oil as fuel. The ban and restrictions were implemented due

to the high sulfur dioxide (SO_2) emissions these fuels produce, contributing to environmental degradation, air pollution, and health hazards for humans, animals, and flora.

29. Contradiction in MPCB's Actions: The Applicant submits that while the MPCB has recognized the environmental dangers associated with Furnace Oil and imposed restrictions, it has, in contradiction to its own policy, granted Consent to Operate to Respondent No. 1, permitting the use of Furnace Oil up to 1450 CMD. This permission undermines the very purpose of the policy and has resulted in significant environmental damage and loss to the Applicant.

30. Environmental Damage Caused by Respondent No. 1: The excessive use of Furnace Oil by Respondent No. 1 has led to uncontrolled emissions of sulfur dioxide (SO_2), Carbon particulate matter, and other harmful pollutants. These emissions have contributed to severe air pollution, affecting the Applicant's health, livestock, agricultural land, and ancillary business activities. Despite the known risks associated with the use of Furnace Oil, the Respondent No. 1 has continued its operations with the MPCB's sanction, exacerbating the environmental damage.

31. MPCB's Failure to Enforce Environmental Laws: The Applicant submits that by permitting the use of Furnace Oil in the Consent to Operate granted to Respondent No. 1, the MPCB has failed to uphold its duty under the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986. This act of permitting the use of a fuel known to cause significant environmental damage is not only in violation of established environmental laws but also contrary to the Precautionary Principle

and Polluter Pays Principle, which form the backbone of environmental jurisprudence.

32. Acknowledgment of Pollution but Failure to Link Damage: The Joint Committee, in its report, which is at Page Nos.270 to 382, acknowledged significant pollution at the premises of the Applicant due to carbon particles and smoke (Point No. 6 on Page ***275***). However, it failed to adequately link this pollution to the damage caused to the Applicant's property, including the loss of cattle and degradation of trees. This failure to establish a causal connection between environmental pollution and property damage violates the **Precautionary Principle** and **Environmental Justice** principles, which require proactive measures to prevent further environmental harm.

33. Overlooking Veterinary Evidence Due to Pandemic: The Joint Committee failed to take into account the unavailability of veterinary doctors from the Livestock Department during the COVID-19 pandemic, which prevented post-mortem examinations of the deceased cattle. This procedural flaw renders the report incomplete and biased, violating the principles of **natural justice** under **Article 14** of the Constitution.

34. It is submitted that the Joint Committee, in its report (Pages 270 to 382), has failed to properly consider the vaccination details of the Applicant's cattle, which are specifically provided at Pages 380 to 381. These vaccination records, particularly at Page 381, clearly document the number of cattle, including buffaloes and cows, owned by the Applicant on the following dates:

Date	Total Nos. of animals

25/10/2018	62
25/03/2019	58
24/10/2019	60
08/03/2020	54
22/09/2021	53
09/12/2022	52

The Joint Committee's report did not take into account the full and accurate number of livestock, including buffaloes, cows, and other animals, owned by the Applicant during the relevant period. Furthermore, in its report, specifically at Page 275, under Point No. 3.3 "1," the Committee acknowledged that during its visit on 19/05/2023, 23 cattle and 18 buffaloes were observed on the Applicant's farm. Despite this admission, the committee failed to incorporate these figures into a proper assessment of the Applicant's cattle holdings.

35. Failure to Consider Livestock Health Reports: The Joint Committee, in its report, failed to consider the critical site visit report dated 12th January 2023, submitted by the Livestock Development Officer, Veterinary Dispensary – Gr-1, Talegaon Dabhade (Page 347). This report documented the severe effects of pollution on the Applicant's livestock, including hormonal imbalances, infertility, and reduced milk yield. The omission of such crucial evidence constitutes a violation of the Polluter Pays Principle, as enshrined in the National Green Tribunal Act, 2010, and necessitates a thorough reconsideration of the report's conclusions.

The site visit report specifically highlights the following points:

(1) *Despite proper artificial insemination using semen doses, a significant number of animals face infertility, with a poor conception rate (e.g., Bull No. 9217/0850-PNE-9217/37001945080-HF75), affecting a total of 12 animals.*

(2) *Even when animals conceive, repeated abortions occur.*

(3) *Despite appropriate care and management, there is a noticeable reduction in milk yield.*

The report concludes that hormonal changes in the animals are evident and attributes the cause to the highly polluted environment, with carbon particles and smoke observed during the farm visit. This vital evidence was overlooked by the Joint Committee in its report, which appears to be skewed in favor of Respondent No.1 Industry. In light of the arbitrary and one-sided nature of the Joint Committee's report, the possibility of collusion between Respondent No.1 Industry, officials of the MPCB, and members of the Joint Committee cannot be ruled out.

36. Environmental Health Risks Overlooked: The Joint Committee also failed to consider the findings that pollution from Respondent No. 1 Industry had led to health risks, as the milk produced by hormonally imbalanced livestock poses threats to consumers, as per the **Food Safety and Standards Act, 2006**. This oversight underscores the bias in the report, and the failure to consider such evidence compromises the integrity of the committee's findings.

37. Unscientific Conclusions on Animal Health: The Joint Committee's conclusion that the Applicant's cattle appeared healthy, based merely on a visual inspection, is scientifically flawed. Proper medical examinations and laboratory analyses are required under

environmental and veterinary regulations, and the Joint Committee's casual approach violates standards of due diligence.

38. Adverse Impact of Carbon Monoxide Exposure: The Joint Committee in its report specifically, a page No.275, point No.3.3 "2" acknowledged, Letter No. 2 dated 12th February 2019, that the Applicant's livestock was exposed to carbon monoxide particles, leading to slow poisoning. However, it failed to incorporate these findings into its final report, violating the **Precautionary Principle** as recognized under the **National Green Tribunal Act, 2010.

39. Record-Keeping Expectations and Bias: The Joint Committee asserted the absence of concrete records regarding livestock transactions, productivity, deaths, post-mortem reports, or sales of by-products such as milk and manure, thus hindering the assessment of exact losses. However, as a small farmer, the Applicant provided milk and its by-products informally to friends and family without maintaining detailed records. It is unreasonable to expect a farmer to anticipate industrial pollution and maintain exhaustive records. Moreover, the Maharashtra Pollution Control Board (MPCB), a government entity, admitted its own limitations in assessing compensation due to lack of expertise. Holding the Applicant to a higher standard of record-keeping in this context is unjust and highlights the biased and superficial nature of the Joint Committee's report. This approach disregards the principles of **equity** and **natural justice** under **Article 14** of the Constitution and environmental standards.

40. Contradictions in Valuation Report: The Joint Committee's valuation report (Page No. 276) deemed the Applicant's claims regarding livestock losses as unjustifiable. However, this conclusion contradicts the Committee's own observations of

significant pollution and the reports from the livestock officer. The discrepancy between the Committee's acknowledgment of pollution and its dismissal of associated losses reveals a contradiction. This inconsistency undermines the credibility of the report and violates the **Polluter Pays Principle** as upheld by the Supreme Court and recognized under the **Environment (Protection) Act, 1986**. Consequently, the report is liable to be rejected.

41. **Destruction of Vegetation**: The Applicant claims compensation for the loss of fruit-bearing trees and vegetation due to pollution from Respondent No. 1 industry. The Joint Committee's expectation that trees should have been present during their visit is illogical, as the Applicant had previously indicated that the trees had perished due to industrial pollution. The Committee's failure to acknowledge the destruction of trees and the resultant loss of income from fruit production is a significant oversight. This omission violates the **Forest (Conservation) Act, 1980** and the principles of environmental damage assessment, warranting a revision of the compensation calculation.

42. **Flawed Observations on Tree Condition**: The Joint Committee's observation that the condition of a mango tree and Subabul plants was due to improper maintenance and watering is flawed. Mature trees like mango and Subabul require minimal watering, and the Committee's comments on maintenance are speculative. Given the documented pollution caused by Respondent No. 1 industry, this oversight reflects bias and a lack of objectivity, failing to address the industry's responsibility for environmental degradation.

43. **Inconsistencies Regarding Pollution Effects**: The Joint Committee's contradictory statements on the absence of effects on

trees from dust and carbon particles, despite acknowledging high pollution levels on the Applicant's premises, further highlight the report's inconsistency. This failure to recognize the visible environmental damage caused by carbon particles from Respondent No. 1 industry reveals bias and undermines the credibility of the Joint Committee's findings.

44. Selective Reporting on Pollution Control: The Joint Committee's report disproportionately criticized the housekeeping conditions of the Applicant's premises while neglecting to address the delayed and inadequate pollution mitigation measures by Respondents Nos. 9 and 10. This lack of accountability for the Respondents' failure to control pollution, despite recognizing the polluted state of the Applicant's property, indicates a biased and arbitrary approach. The report should be set aside for failing to hold the responsible parties accountable under the **Air (Prevention and Control of Pollution) Act, 1981**.

45. Collusion with Respondent No. 1 Industry: The actions of the MPCB officials, who permitted the use of furnace oil by Respondent No. 1 industry despite its ban under various environmental regulations, suggest collusion. The Joint Committee's failure to address this issue or critique the Respondents' actions while shielding the industry from liability indicates bias and warrants the rejection of the Joint Committee's findings.

46. Discrepancies in Carbon Containment Claims: The Joint Committee acknowledged the use of carbon in enclosed sheds by Respondent No. 1 industry but observed pollution on the Applicant's premises, including the presence of carbon particles in post-mortem reports of deceased animals. The discrepancy between these observations and the Committee's claim of contained carbon

further undermines the report's credibility, suggesting selective reporting to favor Respondent No. 1 industry.

47. Mandate of the Tribunal and Scope of Assessment: The Hon'ble Tribunal's order dated 22nd March 2023 directed the Joint Committee to assess the reasonableness of the Applicant's compensation claim for cattle and tree losses due to pollution from Respondent No. 1 industry. The Tribunal did not mandate a site visit or a judgment on the Applicant's premises. The Applicant's claim of Rs. 3,20,91,600/-, (Three Crore, Twenty Lakhs, Ninety One Thousands and Six Hundred Only) was based on expert assessment by Dr. Rahul Mungikar (Annexure 'A-6', Page Nos. 130 to 171) and Form II of the Applicant. The Joint Committee's diversion from this mandate and unwarranted examination of the premises renders its report legally unsound and subject to rejection.

48. Failure to Assess Loss of Equipment and Livelihood: The Joint Committee has grossly failed to assess the significant losses caused to the Executant-Applicant's equipment, plant, machinery, and ancillary livelihood activities, particularly those related to the cattle farm and orchard. This omission is a violation of the principles of **Sustainable Development** and the **Polluter Pays Principle** enshrined under Section 20 of the National Green Tribunal Act, 2010. Given this fundamental oversight, the Joint Committee's report lacks credibility and is liable to be rejected.

49. Non-Consideration of Gober Gas Unit Loss: The Joint Committee has failed to consider the complete shutdown of the Executant-Applicant's Gober Gas Unit, which became non-functional after the collapse of the wall. The pipeline of the gas chamber was damaged, resulting in the mixing of cattle urine with dung. This loss is substantial and directly attributable to the negligence of

Respondent No.1, as stipulated under the **Precautionary Principle**. The Joint Committee's failure to account for this significant economic and environmental loss further invalidates its report.

50. Non-Functionality of Equipment and Loss of Investment: The report of Dr. Rahul Mungikar, particularly in Paragraphs 8 and 9, Page 134, clearly details the loss of the orchard and the use of wood by workers. Furthermore, the pulverizer purchased by the Executant-Applicant for producing mango pulp has remained non-functional for over eight years due to the pollution caused by Respondent No.1, leading to a significant loss of investment. This economic hardship, coupled with environmental degradation, has not been considered by the Joint Committee, violating the **Polluter Pays Principle** and the provisions of the Air (Prevention and Control of Pollution) Act, 1981.

51. Collapse of Compound Wall: The Joint Committee failed to consider the critical issue of the sudden collapse of the compound wall, which was constructed by Respondent No.1. As per the assessment report of Dr. Rahul Mungikar [Page 146], the collapse has caused considerable damage to the Executant-Applicant's property, an issue that the committee has unjustifiably ignored, further demonstrating its failure to assess environmental risks in line with the **Precautionary Principle**.

52. Unaddressed Losses in the Assessment Report: The Joint Committee failed to take into account several significant losses outlined in the assessment report of Dr. Rahul Mungikar, which include:

- Loss of milking machine, accessories, pipeline, and pulsator.
- Loss of cattle shed.

- Loss of livestock, including the death of cattle, cows, buffaloes, and calves due to the wall collapse.
- Loss of the milk business as a result of livestock deaths [Page 149].
- Loss of fodder due to carbon powder pollution [Page 149].
- Damage to the bio-gas plant and related machinery [Page 150].
- Loss of business associated with cow dung [Page 151].
- Damage to the orchard, machinery, and resulting losses in production [Pages 151-153].
- Increased costs of medical treatment for animals and trees due to pollution [Page 154].

The omission of these losses from the Joint Committee's report further demonstrates its inadequacy and bias.

53. **Failure to Consider Photographic Evidence**: The Joint Committee also failed to consider the photographic evidence annexed to the assessment report by Dr. Rahul Mungikar, which clearly corroborates the claims of the Executant-Applicant. This neglect is in direct violation of the directions issued by this Hon'ble Tribunal on 22/03/2023, which required the reasonability of the Applicant's claims to be properly assessed.

54. **Bias of MPCB Member**: The inclusion of the Maharashtra Pollution Control Board (MPCB) member in the Joint Committee was intended to ensure impartiality. However, the member failed to disclose critical facts, such as the show cause notices, orders, and forfeiture of bank guarantees issued by the MPCB to Respondent No.1 for violations of environmental norms. The suppression of this information and the failure to present documentary evidence demonstrates clear bias and compromises the integrity of the Joint Committee's report.

55. **Bias of Animal Husbandry department**, it is pertinent to note that the member of the expert committee from animal husbandry department ignored the post mortem report made and signed by there own departments doctor stating that the death of animal is due to the carbon particle intake. The expert member from the Animal Husbandry department purposefully ignored the report. Which was given to them before the visit by the applicant and it is attached herewith.

56. **Missing Ambient Air Quality Report**: The Joint Committee report lacks the ambient air quality sample analysis, which is crucial for assessing air, soil, and water pollution caused by Respondent No.1. The omission of these key findings renders the report incomplete and undermines the validity of its conclusions, particularly with respect to the environmental damage caused by the Respondent's transition from furnace oil to LPG and its inadequate Effluent Treatment Plant (ETP).

57. **Agrarian Impact and Industrial Harm**: India's agrarian economy relies heavily on farming and cattle-related activities. While the Applicant is not opposed to industrial development, the harmful practices of Respondent No.1, a foreign entity manufacturing rubber hoses for automotive applications, have caused irreparable damage to the Applicant's cattle and livelihood. If these activities are not curtailed, the ongoing environmental degradation will continue, threatening both the Applicant's livelihood and the local ecosystem, in violation of the **Sustainable Development Principle**.

58. **Arbitrariness of Joint Committee Report**: The Applicant's objections, as outlined, clearly demonstrate that the Joint Committee's report was prepared in an arbitrary and biased manner,

favouring Respondent No.1. The report fails to comply with the principles of **Natural Justice** and should therefore be discarded.

59. Increased Pollution from Industrial Operations: Since 2011, the operations of Respondent No.1 have escalated, leading to a significant increase in pollution from hot carbon soot and untreated trade water. These activities have violated environmental standards under the Air (Prevention and Control of Pollution) Act, 1981, and necessitate stricter enforcement of pollution control measures.

60. Failure of Regulatory Authorities: The Respondent authorities, including MPCB, have failed in their duty to ensure that adequate pollution control systems were installed by Respondent No.1 before granting the necessary consents to operate in 2015 and 2021. This negligence has contributed to the ongoing environmental degradation and harm to the Applicant.

61. Consequences of Inaction: The continued failure of the Respondent authorities to take corrective action against Respondent No.1 has resulted in the pollution of groundwater, reserved forests, and air in the vicinity, further affecting the Applicant's property. This dereliction of duty calls for urgent intervention to mitigate further environmental harm.

62. Liability for Compensation: In light of the foregoing reasons, Respondent No.1 Company and its directors are jointly and severally liable to pay the compensation claimed by the Executant-Applicant, in accordance with the principles of **Polluter Pays** and **Restitution** as enshrined under Section 15 of the National Green Tribunal Act, 2010. The environmental damage caused by their activities necessitates immediate compensation to remediate the harm caused.

63. **Suspension of Consent to Operate**: The **Consent to Operate** granted by the Maharashtra Pollution Control Board (MPCB) to Respondent No.1 must be suspended with immediate effect, particularly due to the continued use of furnace oil and high-speed diesel in violation of the **Air (Prevention and Control of Pollution) Act, 1981** and the provisions of the **Environment (Protection) Act, 1986**, which mandate stringent pollution control measures.

64. **Inadequate Environmental Impact Assessment**: The documents filed by Respondent Nos. 9 and 10, in their Reply-Affidavit dated 9th February 2023, failed to provide any comprehensive assessment of the environmental impact caused by Respondent No.1's operations, particularly in relation to pollution of nearby water bodies, the reserved forest, and surrounding land. The reliance on formulaic assessments from the Central Pollution Control Board (CPCB) for environmental compensation, without any remedial action plan, is insufficient and violates the **Precautionary Principle** mandated under Section 20 of the National Green Tribunal Act, 2010.

65. **Non-compliance with Tribunal Orders**: Despite claims made by counsel for Respondent Nos. 9 and 10 that all necessary steps were taken in compliance with this Hon'ble Tribunal's order dated 17.01.2022, no evidence of such actions has been submitted. The failure to disclose these steps in their reply-affidavit is a clear breach of procedural duty, as noted in this Hon'ble Tribunal's order dated 15th December 2022.

66. **Absence of Ambient Air Quality Report**: The Reply-Affidavit submitted by Respondent Nos. 9 and 10 fails to include the Ambient Air Quality sample analysis. No information is provided regarding soil pollution, nor is there any reference to pollution caused by Respondent No.1 before the alleged switch from Furnace Oil to

LPG, or the impact on nearby areas and water bodies due to the inadequate functioning of the Effluent Treatment Plant (ETP). This omission is contrary to environmental regulations under the **Air (Prevention and Control of Pollution) Act, 1981** and **Water (Prevention and Control of Pollution) Act, 1974**.

67. Increased Pollution Due to Expanded Operations: Since 2011, Respondent No.1 Company's operations have expanded significantly, leading to increased emissions of hot carbon soot and discharge of untreated trade effluents. These activities contravene the provisions of the **Air (Prevention and Control of Pollution) Act, 1981**, and **Water (Prevention and Control of Pollution) Act, 1974**, requiring urgent regulatory intervention.

68. Failure to Ensure Pollution Control Measures: The Respondent authorities granted Consent to Operate to Respondent No.1 in 2015 without ensuring that essential pollution control systems were in place. This failure to verify compliance with environmental standards is a direct breach of their duties under the **Air (Prevention and Control of Pollution) Act, 1981**, and **Water (Prevention and Control of Pollution) Act, 1974**. It is important to notice that the respondent authority i.e. MPCB has forfeited the bank guarantee of the respondent no 1 for violating the environment norms more than once on following dates,

69. Non-Compliance with Legal Principles: The Respondent authorities failed to uphold the principles of environmental law, particularly the **Precautionary Principle** and the **Sustainable Development Doctrine**, by allowing continued pollution of groundwater and air following the first violation of the consent terms issued under the relevant environmental laws.

70. Violation of Constitutional and Statutory Provisions: The failure of the Respondent authorities to perform their duties in a timely manner constitutes a violation of **Article 21** (Right to Life) and **Article 51A(g)** (Fundamental Duty to protect the environment) of the Constitution of India. Moreover, the violation of consent terms under **Section 26 of the Water (Prevention and Control of Pollution) Act, 1974**, **Section 21 of the Air (Prevention and Control of Pollution) Act, 1981**, and **Rule 5 of the Hazardous Waste (Management, Handling & Trans-boundary Movement) Rules, 2008** further aggravates the environmental damage caused.

71. Ongoing Pollution and Regulatory Inaction: The continued inaction of the Respondent authorities in addressing the environmental violations by Respondent No.1 has resulted in severe pollution of groundwater, air, and reserved forests in the vicinity, adversely affecting the Applicant's property and the surrounding environment. This ongoing violation calls for immediate corrective action.

72. Loss of Milking Machine, Accessories, Pipeline, and Pulsator: The pollution, particularly the deposition of carbon soot and exposure to toxic industrial effluents, has caused irreparable damage to essential dairy equipment, including the milking machine, accessories, pipeline, and pulsator. These items are integral to the daily operations of the Applicant's dairy business, and their destruction has caused significant operational disruption. The Applicant claims compensation for the replacement cost of the machinery and associated accessories.

73. Loss of Cattle Shed: The collapse of the cattle shed, due to prolonged exposure to industrial pollutants and subsequent structural weakening, has resulted in the Applicant losing a vital part

of his dairy infrastructure. This shed housed livestock and provided shelter during adverse weather conditions. The Applicant claims compensation for the cost of rebuilding the cattle shed and any ancillary structures.

74. **Loss of Livestock, Including Death of Cattle, Cows, Buffaloes, and Calves:** The Applicant submits that the collapse of the cattle shed, exacerbated by the hazardous pollution from Respondent No. 1's industrial operations, led to the tragic death of multiple livestock, including cows, buffaloes, and calves. These animals were a primary source of income through dairy production. The Applicant claims compensation for the market value of the lost livestock, including the economic impact of future dairy production losses.

75. **Loss of Milk Business Due to Livestock Deaths:** As a result of the significant loss of livestock, the Applicant's milk production business has suffered immensely. The death of cattle and other dairy animals has disrupted the supply chain, leading to substantial financial losses. The Applicant claims compensation for the loss of income derived from the milk business due to the demise of livestock.

76. **Loss of Fodder Due to Carbon Powder Pollution:** The continuous deposition of carbon powder and other pollutants on grazing land has rendered the fodder unsafe for consumption, leading to a shortage of feed for the remaining livestock. The Applicant claims compensation for the loss of fodder and the subsequent increased costs of sourcing alternative feed for the livestock.

77. **Damage to Bio-Gas Plant and Related Machinery:** The Applicant had invested in a bio-gas plant to convert cow dung into bio-gas as part of an eco-friendly initiative. However, due to the

pollution from Respondent No. 1's operations, the machinery has been damaged beyond repair, resulting in a total cessation of bio-gas production. The Applicant claims compensation for the damage to the bio-gas plant, related machinery, and the loss of potential income from bio-gas production.

78. Loss of Business Associated with Cow Dung: The Applicant's business model also involved selling cow dung for use as manure and in other agricultural activities. Due to the loss of livestock and the pollution affecting the remaining dung's quality, this business has suffered significant losses. The Applicant claims compensation for the financial losses associated with this ancillary business.

79. Damage to Orchard, Machinery, and Resulting Losses in Production: The Applicant further submits that the pollution has caused substantial damage to his orchard, affecting the health of trees and reducing agricultural yield. In addition, the machinery used in maintaining the orchard has been damaged due to exposure to industrial pollutants. The Applicant claims compensation for the damage to the orchard, loss of fruit production, and the repair or replacement of machinery necessary for maintaining the farm.

80. Increased Medical Costs for Livestock and Trees Due to Pollution: The Applicant submits that continuous exposure to air and water pollutants has had a detrimental impact on the health of the remaining livestock and trees on the Applicant's property. This has resulted in the need for frequent medical interventions, leading to a substantial increase in veterinary care and agricultural maintenance costs. The Applicant seeks compensation for the additional expenses incurred in treating the affected animals and trees due to the Respondents' pollution.

81. Environmental Degradation and Liability of Respondent No. 1: The Applicant respectfully submits that Respondent No. 1, a manufacturing unit, has been continuously discharging carbon soot and other toxic pollutants into the atmosphere, causing severe environmental degradation. These unchecked emissions have significantly deteriorated air quality and reduced oxygen levels in the vicinity of the Applicant's property, contributing to the death of livestock, particularly cows, and inflicting considerable damage on the surrounding ecosystem. The Respondent No. 1's actions directly contravene environmental regulations, making them liable for the harm caused to the Applicant's property and livelihood.

82. Violation of Article 21 of the Constitution of India: The emissions from Respondent No. 1's industrial unit infringe upon the Applicant's fundamental rights to life and a clean environment under Article 21 of the Constitution. The right to a healthy environment encompasses the right to breathable air and the protection of natural ecosystems, which are essential for the health and safety of all living beings, including livestock.

83. Environmental Damage and Impact on Livestock: The carbon soot emissions from the Respondent No. 1's factory have resulted in severe air pollution, leading to a drastic reduction in oxygen levels, which has caused the death of several cows owned by the Applicant. The fine particulate matter (PM2.5 and PM10) in the soot has severely compromised the respiratory systems of the livestock, leading to suffocation, respiratory diseases, and eventual death.

84. The accumulation of soot on grazing lands and water sources has further exacerbated the impact on the local ecology,

rendering the environment unsafe for animals and humans alike. Cows, being more vulnerable to air pollutants due to their grazing habits and prolonged outdoor exposure, have suffered greatly as a direct result of the industrial emissions.

85. Failure to Abide by Environmental Norms: The Respondent No. 1 has failed to comply with the environmental standards and regulations prescribed under the Air (Prevention and Control of Pollution) Act, 1981, and the Environment (Protection) Act, 1986. The factory's activities are in direct violation of the National Ambient Air Quality Standards (NAAQS) and have caused irreparable damage to both the environment and the Applicant's livelihood. Despite several complaints and inspections, the Respondent continues to operate in a manner that poses a grave threat to environmental and public health.

86. Liability of Respondent No. 1: The Respondent No. 1 is liable for the environmental damage caused by the release of carbon soot into the atmosphere, leading to the loss of livestock and degradation of the surrounding environment. Under the Polluter Pays Principle enshrined in the NGT Act, 2010, the Respondent is obligated to compensate for the environmental harm and the economic loss suffered by the Applicant due to the death of cows.

87. Denial of Natural Justice: The actions of the Respondent authorities are in violation of the principles of **Natural Justice**, as the Applicant was denied a fair opportunity to be heard. This failure undermines the legal process and further reinforces the need for judicial intervention to protect the Applicant's rights and the environment.

88. Non-Conformity of Show Cause Notices: The show-cause notices issued by Respondent No.10 are not in conformity with

the documentary evidence submitted by the Applicant. The failure to consider material evidence amounts to a violation of due process, necessitating a review of the said notices under the principles of **Natural Justice**.

89. Suspension of Consent to Operate: This Hon'ble Tribunal is requested to suspend the **Consent to Operate** dated 20th September 2021, issued by the Maharashtra Pollution Control Board (MPCB) to Respondent No.1. Despite the terms of the said consent, Respondent No.1 continues to use furnace oil, which is in violation of environmental norms under the **Air (Prevention and Control of Pollution) Act, 1981**, thereby causing significant environmental harm.

90. Environmental Impact on Reserved Forest: As per the assessment report of Dr. Rahul Ramesh Mungikar, **Annexure A-6**, the Applicant's plot is located at the foothills of Chaurai Hills, in the North-East direction, with Respondent No.1's industry located adjacent to the west of the Applicant's plot. The Chaurai Hills is a notified **Reserved Forest (RF)**, and while assessing the environmental compensation, the protection of Chaurai Hills and its plantation must be separately considered under the **Forest (Conservation) Act, 1980** and related environmental laws.

91. Suspension of Consent to Operate: In light of the aforementioned violations, the Consent to Operate granted by the Maharashtra Pollution Control Board (MPCB) to Respondent No. 1 must be suspended with immediate effect. The suspension should remain in place until the Respondent adequately addresses the environmental violations and ensures compliance with the **Environmental Protection Act, 1986**, and associated regulatory frameworks. Failure to take such action would not only contravene

statutory provisions but also perpetuate the ongoing harm caused to the environment and the Applicant.

92. **Violation of the Public Trust Doctrine**: The Applicant further submits that the Joint Committee's report has disregarded the fundamental principles of the **Public Trust Doctrine**, which obligates the State to protect and preserve resources held in trust for the benefit of the public. The environmental damage and the resulting losses suffered by the Applicant directly stem from the MPCB's failure to discharge its official duties. As the regulatory authority, the MPCB is responsible for issuing operational permits only after ensuring full compliance with environmental standards and legal procedures. By allowing Respondent No. 1 Industry to continue operations despite clear evidence of pollution and non-compliance, the MPCB has violated the **Public Trust Doctrine**. This dereliction of duty undermines public trust, facilitates environmental degradation, and is contrary to the established legal and regulatory norms. The MPCB's actions, or lack thereof, have contributed to the deterioration of the environment and warrant serious reconsideration of its role in permitting and enforcing compliance.

93. **Legal Basis for Compensation**: The Applicant submits that Respondent No. 1's continued use of Furnace Oil, in direct violation of the Maharashtra Pollution Control Board (MPCB) policies and the orders of the Hon'ble National Green Tribunal (NGT), constitutes a breach of environmental laws, including the **Air (Prevention and Control of Pollution) Act, 1981**, and the **Environment (Protection) Act, 1986**. The Respondent's actions have caused irreparable harm to the Applicant's property, health, and livelihood, warranting compensation for the damages suffered. The **Precautionary Principle** and the **Polluter Pays Principle**, enshrined in environmental law, impose a duty on the Respondent to

take necessary precautionary measures to prevent pollution and bear the financial burden of the damage caused by their unlawful actions. By continuing to use Furnace Oil, despite the clear directives to phase out its usage, and with the MPCB's tacit approval through the grant of the Consent to Operate, the Respondent has violated fundamental environmental norms. Under the **Polluter Pays Principle**, the Respondent is liable to compensate the Applicant for the substantial harm caused. The MPCB, having failed to enforce its own policies, is equally responsible for the ensuing damage and must be held accountable for failing to prevent environmental harm.

94. Increased Production and Environmental Compliance: The Applicant respectfully submits that under the Consent to Operate issued on 28th September 2015, Respondent No. 1 was authorized to manufacture 150 Tons per Month (T/M) of rubber and 25 Tons per Month (T/M) of nylon. However, the revised Consent to Operate dated 20th September 2021 reflects a significant escalation in production capacity to 3600 Metric Tons per Annum (MTA) for rubber and 600 Metric Tons per Annum (MTA) for nylon. This substantial increase in production has corresponded with an increase in environmental pollution. The Applicant requests clarification on whether Respondent No. 1 obtained the necessary Consent to Establish in accordance with the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974, prior to expanding its production capacity. Additionally, it is essential to determine whether the Maharashtra Pollution Control Board (MPCB) conducted a mandatory public hearing under the Environmental Impact Assessment (EIA) Notification, 2006, before approving the expansion. The unaddressed rise in production raises serious concerns regarding Respondent No. 1's adherence to environmental regulations and the due diligence

exercised by the MPCB in safeguarding public health and the environment. The lack of transparency and possible failure to follow due process constitutes a violation of the Precautionary Principle and the Sustainable Development Principle, as outlined in Article 21 of the Constitution of India and the National Green Tribunal Act, 2010. The Hon'ble Tribunal is urged to consider the implications of the expanded production on environmental degradation and to thoroughly examine the compliance of both Respondent No. 1 and the MPCB with applicable environmental laws. Furthermore, given the increased production, it is concerning that there has been no corresponding enhancement in the Effluent Treatment Plant (ETP) sludge management.

95. Handling of Hazardous Waste and Compliance Violation: The Applicant respectfully submits that, pursuant to the conditions outlined in various Consents to Operate, notably Consent Condition No. 8, Table Point No. 4, Page No. 91, Respondent No. 1 Industry is authorized to handle hazardous wastes, specifically 28.3 Spent Carbon, with a maximum limit of 12 metric tons per month (144 metric ton per annual). However, the Hazardous Waste Manifest, detailed on Pages 412 to 417, indicates that Respondent No. 1 Industry has generated a total of 403.1 metric tons of Spent Carbon annually. This amount significantly exceeds the authorized limit specified in the Consent to Operate, thereby demonstrating a clear violation of waste handling regulations. The substantial generation of hazardous waste, particularly Spent Carbon, reflects the severe extent of pollution caused and substantiates the Applicant's claims. Therefore, Respondent No. 1 Industry is liable for compensation as requested by the Applicant.

96. Non-Compliance with Hazardous Waste Regulations: The Applicant submits that, according to the Consent to Operate

dated 28th September 2015 (Annexure A-7, Page No. 191), specifically Clause No. 8, Respondent No. 1 Industry was not authorized to generate carbon as hazardous waste. It has come to light that Respondent No. 1 Industry has intentionally withheld relevant documents to evade liability and conceal material facts from this Hon'ble Tribunal. This deliberate omission undermines the transparency of the proceedings and supports the Applicant's claim for compensation. Given the Respondent No. 1's failure to adhere to the consent conditions and their attempt to obscure critical information, it is respectfully submitted that the Applicant is entitled to the compensation sought.

97. Handling of Hazardous Waste and Compliance and Violation: The Applicant submits that, according to the conditions stipulated in various Consents to Operate, including specifically Consent Condition No. 8, Table Point No. 4, Page No. 91, Respondent No. 1 Industry is authorized to handle hazardous wastes, including 34.2 sludge resulting from the treatment of wastewater generated from the cleaning and disposal of barrels and containers, with a permissible quantity of 10 kg per month. However, the Hazardous Waste Manifest, detailed on Pages 414, 415, 416, and 417, indicates that Respondent No. 1 Industry has produced a total of 2200 kg of ETP sludge annually. This quantity significantly exceeds the permissible limit established under the Consent to Operate. The substantial volume of ETP sludge—2200 kg per annum—suggests that the effluent generation by Respondent No. 1 is far greater than what is legally permitted. This discrepancy points to potential manipulation of documents and non-compliance with environmental regulations. Such excess generation of hazardous waste not only violates the consent conditions but also indicates a failure in proper waste management practices, thereby breaching relevant provisions and regulatory standards.

98. **Failure to Produce Hazardous Waste Manifest:** The Applicant submits that, according to the Consent to Operate dated 19th July 2017 (Annexure A-18), Condition No. 8 authorizes Respondent No. 1 Industry to handle hazardous waste, including paraffinic oil, toluene, sulfur, and flue gas dust, among other particulates. However, it is concerning that Respondent No. 1 Industry has failed to produce any manifest or documentation regarding the disposal of hazardous waste since 2017. This lack of compliance with documentation requirements raises serious concerns about the handling and disposal of hazardous waste and indicates a potential violation of regulatory obligations.

99. **Non-Compliance with Hazardous Waste Management Requirements**: The Applicant respectfully submits that, according to the Consent to Operate dated 20th September 2021 (Exhibit-C, Page No. 88), Clause No. 8 (ii), 2(a) and (b) specifies the following requirements:

Emergency Reporting and Compliance: The industry is required to comply with the Hazardous Waste (Management, Handling, and Transboundary Movement) Rules, 2008.

a. *In the event of an accident, gas leakage, or any unforeseen incident that results in emissions exceeding the established standards, the industry must promptly report the incident to the Collector, Directorate of Industry, Safety and Health, Police Station, Fire Brigade, Directorate of Health Services, Department of Explosives, the Board, and the Local Body. The production process should be halted immediately with all necessary safety measures taken. The industry is also obligated to monitor emissions to ensure they do not cause harm or nuisance to the*

surrounding areas. Production must not resume without obtaining prior permission from the Board and other relevant statutory bodies.

b. *Data Display and Reporting: The unit must display and maintain data online outside the factory's main gate in both Marathi and English on a 6'x4' display board. Compliance reports, along with photographs, must be submitted to the office and the concerned Regional/Sub-Regional Office.*

The Applicant notes that despite the Respondent No. 1 Industry exceeding the permissible limits for hazardous waste as established under the Consent to Operate, it has failed to adhere to the aforementioned conditions. This persistent non-compliance with regulations demonstrates a disregard for legal requirements and underscores the need for this Hon'ble Tribunal to initiate suo-motu action against Respondent No. 1 Industry.

100. Failure to Produce Membership Agreement and Non-Disposal of Hazardous Waste: The Applicant respectfully submits that Respondent No. 1 Industry has failed to provide the membership agreement with Maharashtra Enviro Power Limited for the disposal of hazardous waste. This document has been deliberately withheld from this Hon'ble Tribunal, potentially to influence the Court's decisions in their favor. Proper disposal of hazardous waste is a critical compliance requirement, and the failure to produce this agreement raises serious concerns about the Respondent No. 1 Industry's adherence to legal obligations. This issue is crucial for the Tribunal to consider when adjudicating the compensation claim on its merits. It is particularly concerning that the Applicant has been forced to gather evidence through experts to substantiate the claim that

Respondent No. 1 Industry is causing pollution. The necessity for a victim to undertake such efforts to secure justice is deeply troubling and highlights a significant procedural gap in ensuring compliance and accountability.

101. Increased Capital Investment and Environmental Impact: The Applicant submits that, according to the Consent to Operate dated 28th September 2015, Respondent No. 1 declared a capital investment of Rs. 4138.6 lakhs. In the subsequent Consent to Operate dated 20th September 2021, Respondent No. 1 significantly increased its capital investment to Rs.6496.52 lakhs, reflecting a rise of ₹ 2357.92 lakhs. This substantial increase in capital investment corresponds with the expansion of industrial operations, inevitably leading to an escalation in environmental pollution, including contamination of air, water, and soil. The Applicant raises serious concerns about whether Respondent No. 1 adhered to mandatory environmental requirements, including obtaining necessary permissions under the **Air (Prevention and Control of Pollution) Act, 1981**, and the **Water (Prevention and Control of Pollution) Act, 1974**, as well as conducting a proper **Environmental Impact Assessment (EIA)** under the EIA Notification, 2006. Additionally, the Applicant questions whether the MPCB exercised due diligence in assessing the environmental impact of this expanded capital investment and whether adequate pollution control measures were implemented. Any failure to address the environmental consequences of this industrial expansion violates the **Precautionary Principle**, which mandates preventive action in the face of environmental risks. This Hon'ble Tribunal is urged to carefully examine the increased capital investment and its direct correlation with pollution issues, ensuring that Respondent No. 1 is held accountable for any violations of environmental laws arising from its industrial expansion, and to

direct appropriate remedial measures to mitigate the environmental harm caused.

102. Admissions by Respondent No. 1: The Applicant submits that, while adjudicating the present matter, this Hon'ble Tribunal must give due consideration to the admissions made by Respondent No. 1 Industry in its Affidavit in Reply dated 12th December 2022 (Page Nos. 62 to 77), particularly paragraph 6 on Page 69, wherein it is stated that, "These boilers are provided with a scrubber system with one common stack of 30 meters in height and that the said boiler has been running on LPG since June 2021 on a regular basis, and the Industry has stopped using furnace oil as fuel for the boilers." This admission is of critical importance and invokes the **doctrine of preponderance of probability**, as the Respondent No. 1 Industry claims to have ceased using furnace oil but simultaneously sought permission from the MPCB in the Consent to Operate dated 20th September 2021 (Exhibit-C, Page No. 88) for the use of furnace oil, which was granted by the MPCB. This raises serious questions about the veracity of Respondent No. 1's claims and the actual fuel usage in its operations.

103. Discrepancies in Documents Submitted by Respondents: The Applicant further submits that there are significant inconsistencies in the documents produced by Respondent Nos. 1 to 6. Specifically, at Page No. 418 of the Test Certificate, the stack height is recorded as 15 meters, whereas Respondent No. 1 Industry, in its affidavit, claims to have provided a stack height of 30 meters. This discrepancy casts doubt on the credibility of the documents submitted by Respondent No. 1, indicating that the documents may not support the version of facts presented by the Respondents. This Hon'ble Tribunal is urged to scrutinize these

conflicting submissions and take appropriate action in light of the inconsistencies.

104. Discrepancies in Stack Height and Manipulation of Documents: The Applicant respectfully submits that, in the letter dated 25th May 2019 (Exhibit A, Page No. 396), Respondent No. 1 Industry, in response to a Show Cause Notice issued by the Regional Officer, MPCB, stated, "We have steam boilers (two in total, with one on standby) for the vulcanization process, and the fuel used is best quality furnace oil. For air pollution control, we have provided a dust collection system followed by a dry scrubber for the boiler and have also installed a stack with a height of 30 meters." However, as recorded on Page No. 418 of the Test Certificate, the stack height is mentioned as only 15 meters. Furthermore, under the terms and conditions of the Consent to Operate dated 28th September 2015 (Annexure A-7, Page No. 191), specifically Point No. 7, Sub-clause (ii), Respondent No. 1 Industry is expressly required to provide a stack height of 30 meters. The fact that the stack height has been provided as only 15 meters, contrary to the 30 meters mandated by the Consent to Operate, highlights significant discrepancies and suggests manipulation of documents by Respondent No. 1 Industry. This inconsistency is sufficient to cast doubt on the credibility of the information provided by Respondent No. 1 and warrants further scrutiny by this Hon'ble Tribunal.

105. Unauthorized Change in Manufacturing Process: The Applicant respectfully submits that, under the Consent to Operate dated 28th September 2015 and the Consent to Operate dated 19th July 2017, Respondent No. 1 Industry was permitted to manufacture Rubber and Nylon. However, through the subsequent Consent to Operate dated 20th September 2021, Respondent No. 1 Industry altered its production to manufacturing Rubber Hose/Tube and

Nylon Tube. The Applicant questions how such a significant change in the manufacturing process was allowed by the Maharashtra Pollution Control Board (MPCB) without proper assessment of the environmental impacts and compliance with relevant laws and regulations. The Applicant further submits that any such modification in production requires a detailed environmental evaluation and due diligence, which appears to have been overlooked in this case. Therefore, the Applicant seeks this Hon'ble Tribunal's consideration of the unauthorized alteration in the production process and the MPCB's role in permitting this change.

106. Key Admission Regarding Pollution by Respondent No. 1 Industry: The Applicant respectfully submits that the Respondent No. 1 Industry, in its Rejoinder in Reply dated 24th February 2023 (Page Nos. 172 to 180), has made a significant and material admission. At Page No. 175, Point No. 3, Respondent No. 1 expressly states, "I state that the MPCB is also required to come up with a remedial action plan for the prevention of pollution of the environment." This statement is of critical importance, as it constitutes a clear acknowledgment, under oath, by Respondent No. 1 Industry that pollution is indeed occurring as a result of its industrial activities and that the Maharashtra Pollution Control Board (MPCB) is obligated to devise a remedial action plan to address the issue. This admission is consistent with the Applicant's long-standing claims of environmental pollution caused by Respondent No. 1's operations. Furthermore, this acknowledgment serves as corroboration of the Applicant's allegations, reinforcing the validity of the claims made regarding pollution and environmental harm. In light of this clear admission, the burden of proof on the Applicant—i.e., to establish that Respondent No. 1's industrial operations have caused environmental degradation—has been conclusively discharged. Therefore, the Applicant's claim for compensation is not

only justified but substantiated by the Respondent's own admissions. Accordingly, it is respectfully submitted that the Applicant is entitled to the full compensation sought in the present matter.

107. Clarification on Jurisdiction and Applicability of Case Law: The Applicant respectfully submits that the Respondent No. 1 Industry, by citing the judgment of the Hon'ble Bombay High Court in The Goa Foundation v. The National Green Tribunal, Principal Bench and Others in PIL Writ Petition No. 4 of 2022, has incorrectly argued that this Hon'ble Tribunal lacks jurisdiction over the present matter. The judgment in Goa Foundation pertains specifically to the issue of territorial jurisdiction, which is not relevant to the present case. In the current matter, both the Applicant and Respondent No. 1 Industry reside and conduct business within the territorial jurisdiction of this Hon'ble Tribunal. Therefore, this Tribunal has the jurisdiction to adjudicate the Applicant's claim under the National Green Tribunal Act, 2010. The facts of this case differ substantially from the circumstances in Goa Foundation, making that ruling inapplicable here. Accordingly, the judgment cited by Respondent No. 1 does not bar this Hon'ble Tribunal from entertaining and adjudicating the Applicant's claim. It is respectfully submitted that the argument raised by Respondent No. 1 based on territorial jurisdiction is misplaced, and this Hon'ble Tribunal is fully competent to proceed with the case.

108. Admission of Pollution and Liability for Compensation: The Applicant respectfully submits that Respondent No. 1 Industry, in its Rejoinder in Reply dated 24th February 2023 (Page Nos. 172 to 180), has made a significant and material admission. At Page No. 231, Point No. 12, Respondent No. 1 expressly acknowledges that "the plan of the Respondent No. 1 was set up on 21/01/2011, after the consent to establish was received from various

public authorities, including Respondent No. 9." This admission is critical, as it establishes that since 21/01/2011, the Respondent No. 1 Industry has been operational and, by implication, has been contributing to pollution in the area. Based on this acknowledgment, the Respondent No. 1 Industry is liable to pay compensation for the environmental damage and pollution caused from 21/01/2011 onwards. The Applicant, therefore, submits that this admission strengthens the claim for compensation for the harm and pollution resulting from the industrial activities of Respondent No. 1, and it is respectfully requested that this Hon'ble Tribunal take this into account when deciding the present matter.

109. Significant Admission of Pollution and Impact: The Applicant respectfully submits that in its Rejoinder in Reply dated 24th February 2023 (Pages 172 to 180), Respondent No. 1 Industry has made a significant and material admission. Specifically, at Page No. 236, Point No. 26, Respondent No. 1 acknowledges the pollution caused by its operations. The statement, "with respect to contents of paragraph No. 12(f) of the Application, I repeat and reiterate that Respondent No. 1 company has caused damage to the environment or the Applicant, as alleged or at all," constitutes a direct admission of environmental harm. This admission is crucial as it substantiates the Applicant's claim for compensation. Given Respondent No. 1's acknowledgment of causing damage, it is respectfully submitted that the Applicant's claims are fully supported by this admission and should be granted accordingly.

110. Non-Compliance and Complaints: The Applicant submits that Respondent No. 1 Industry has consistently failed to comply with regulatory requirements since 2016. The Applicant has lodged the four complaints on 25/05/2016, 23/03/2017, 04/01/2019 and 29/03/2019 (All complaints has been annexted

in O.A.No.69/2021) with the Maharashtra Pollution Control Board (MPCB) after the renovation of the Consent to Operate by the MPCB in 2015. Despite receiving these complaints, the MPCB, Pune, has only issued show-cause notices and directions to Respondent No. 1 Company without taking any stringent action to protect the Applicant's cattle, trees, soil, and surrounding environment.

111. Inadequate Response and Consent Revision: The Applicant states that, instead of addressing the complaints and ensuring compliance from Respondent No. 1, the MPCB revised the Consent to Operate on 19/07/2017, overriding the previous Consent to Operate. This revision did not resolve the issues of non-compliance.

112. Operational Status and Consent Validity: The Applicant notes that the MPCB report does not clarify whether Respondent No. 1 was operational without a valid Consent to Operate between 31/07/2021 and 20/09/2021, given that the previous Consent was valid until 31/07/2021, and the renewal was granted on 20/09/2021.

113. Enforcement Policy and Non-Action: The Applicant refers to the Gazetted Enforcement Policy established in 2016 on the Tribunal's directions, which stipulates that:

> '(d) Conditional Directions: To ensure compliance within the stipulated period, after issuing the Preliminary Directions (PD) and based on the reply/no reply, final conditional directions with a timeframe must be issued within 45 days. If conditions are not met, prohibitory/restraining Orders under Section 32 of the Water Act and Section 22 of the Air Act should be issued. Failure to comply after a prohibitory Order allows for

applications under Section 33 of the Water Act or Section 22A of the Air Act before JMFC/CJM for appropriate orders.'

It is evident that no action was initiated by the MPCB in accordance with this policy to control pollution, while the Applicant's cattle suffered abortions and deaths.

114. Lack of Report on Enforcement Actions: Despite consistent violations by Respondent No. 1, the MPCB's report dated 25/11/2021 did not address the essential actions required under the Enforcement Policy, particularly those related to remediation and restoration of environmental damage.

115. Renewal Without Due Process: The Applicant asserts that, despite issuing an objection notice dated 14/08/2021 regarding the renewal of the Consent to Operate, the MPCB renewed Respondent No. 1's Consent without providing an opportunity for the Applicant to be heard regarding the damages caused by pollution and without ensuring environmental remediation and restoration.

116. Impact of Delayed and Inadequate Actions: The Applicant contends that the delayed, inadequate, and incorrect actions by Respondent No. 10 permitted Respondent Nos. 1 to 6 to damage the Applicant's mango orchard and cause harm to his cattle. The pollution from Respondent Nos. 1 to 6 has led to the death of young calves and pregnant cows, deteriorated the health of other livestock, and caused significant property damage. The Applicant seeks relief to protect his fundamental right to a clean environment, compensate for losses, and ensure the installation of essential pollution control systems.

117. Expansion of Operations and Pollution: The Applicant observes that Respondent No. 1 Company, engaged in manufacturing

rubber hoses, significantly increased operations post-2011, resulting in higher pollution levels from hot carbon soot and untreated trade water.

118. Ignorance of Legal Provisions: Respondent Nos. 1 to 6 have disregarded legal provisions, and the relevant authorities have failed to address these violations, allowing significant harm to the Applicant's property, including the death of cattle, degradation of flora and fauna, and groundwater pollution.

119. Violation of Environmental Laws and Constitutional Rights: The failure of the Respondent authorities to perform their duties has led to violations of environmental laws and the Constitution of India.

120. Failure to Ensure Pollution Control Measures: The Respondent authorities should have ensured the installation of adequate pollution control systems before issuing the Consent to Operate in 2015. It appears that these checks were not conducted.

121. Lack of Enforcement Following Violations: The authorities failed to apply legal principles and enforce measures to prevent further pollution after initial consent violations.

122. Prevention of Environmental Damage: The authorities should have taken prompt and necessary actions to prevent the destruction of the Applicant's mango orchard, degradation of animal health, and property contamination.

123. Use of Legal Powers: The authorities should have utilized all legal powers to prevent illegal activities and continued violations by Respondent No. 1.

124. Violation of Constitutional and Environmental Laws: The authorities' failure to act in a timely manner violates Article 21 and Article 51A(g) of the Constitution of India, as well as provisions under the Water Act, Air Act, and Hazardous Waste Rules.

125. Further Pollution and Environmental Harm: The inadequate response from authorities has resulted in continued pollution of groundwater, reserved forests, and air, affecting the Applicant's property.

126. Legal and Procedural Irregularities: The actions of the authorities are contrary to legal standards and principles of natural justice, particularly in denying the Applicant an opportunity to be heard.

127. Inadequate Show-Cause Notices: The show-cause notices issued by Respondent No. 10 did not align with the documentary evidence provided by the Applicant.

128. The Applicant respectfully highlights the significant disparity between their position and that of Respondent No. 1. The Applicant, a farmer with limited financial resources, faces considerable challenges in addressing the environmental impact caused by Respondent No. 1, a company with substantial financial and operational power. Despite the resources at their disposal, Respondent No. 1 has persistently failed to uphold environmental standards. For the Applicant, the cows and other animals are revered and integral to their livelihood and also is part of the religious faith and tradition, considering the fact that the Indian considered Cows and other cattle equivalent to GOD. Witnessing the suffering and death due to pollution of the cows and other cattle is profoundly distressing for the Applicant. Furthermore, it is notable that, despite the involvement of Respondent No. 9, a state authority, there was a

failure to conduct a site survey and produce a comprehensive report. When the Applicant independently arranged for such a report, the Respondent Nos. 1 to 6 unjustifiably rejected it without providing adequate justification and the Respondent Nos. 9 and 10 claimed compensation, without raising such serious issue of pollution before this Hon'ble Tribunal. The Applicant questions how the Animal Husbandry Department (AHD) and the State and Central Pollution Control Boards assessed the losses suffered by the farmer. It is pertinent to ask whether, if the farmer were to incur the expense of Rs. 1.25 lakh, these departments would be able to procure an equivalent number of high-quality milking animals for the same amount.

129. Quantum of Compensation: The Applicant submits that the Respondent must be held liable for compensating both the economic and environmental damage suffered. The following compensation is claimed:

Economic Loss: Compensation for the death of cows, which includes the market value of the cows, the loss of income from dairy production, and other associated costs.

Environmental Compensation: Restoration costs for the damage caused to the grazing land, water sources, and local flora affected by carbon soot deposition.

Health and Environmental Impact: Compensation for the air quality degradation, reduced oxygen levels, and long-term impact on the surrounding ecosystem.

The compensation must be calculated in accordance with the guidelines laid down by the Ministry of Environment, Forest and

Climate Change (MoEFCC) for environmental damage assessments and livestock loss due to industrial pollution.

130. Due to lack of necessary time, Dr Rahul Ramesh Mungikar could not assess the actual contamination of soil and water by taking samples and getting them assessed from the recognized laboratories. The assessment was done on the basis of actual damage done to the property, monitory loss caused due to the deaths and abortions of cattle, loss of milk production, loss of supportive livelihood activities in organic manure, fertilizers etc, other damages caused to the machinery, plant, equipment and destruction of orchard & incidental losses there too.

131. That the loss assessed and computed by Dr. Rahul Ramesh Mungikar is based on the actual loss sustained by the Execution Applicant which did not take into account remuneration paid by the Execution Applicant for availing expertise of Dr. Rahul Ramesh Mungikar and the compensation for mental harassment & agony suffered by the Executant Applicant for more than 8 years.

132. That it is clear and apparent from the records submitted by the Respondent No. 9 the Maharashtra Pollution Control Board, the Respondent No. 1 to 6 were willfully violating the conditions prescribed to them while granting consent to establish and consent to operate by the Maharashtra Pollution Control Board. The Respondent No 1 to 6 have demonstrated ruthless & violative mentality of a typical multinational organization that is earning profits while disrespecting laws of the country, and damaging local cattle bearer and local environment by consistent pollution. Respondent No 1 to 6 have been violating the environmental norms and yet kept receiving renewal of consents to carry out uninterrupted business & pollution, while the neighboring farmer, the Execution Applicant herein, was

left helpless collectively by all the respondents while the Execution Applicant was losing his livestock, his trees, his right to clean environment, his property.

133. That the Executant Applicant therefore demands the total loss to the tune of Rs.3,10,41,600/- (Three Crore, Ten Lakhs, Forty-One Thousands and Six Hundred Only), which is based upon the assessment report of Dr. Rahul Ramesh Mungikar. That in addition to this the Respondent No.1 Company and its directors are also liable to pay remuneration of Expert i.e. Dr. Rahul Ramesh Mungikar, appointed by the Execution Applicant for the purpose of making assessment report for computing total loss that has been sustained by the Execution Applicant to the tune of Rs. 50,000/-(Rupees Fifty Thousand Only). That so also, the Respondent No.1 Respondent No.1 Company and its directors are also liable to pay an amount of Rs. 10,00,000/- , considering the mental pain and agony which the Execution Applicant was/is suffering due to pollution of the Respondent No.1 Company. That therefore, the Respondent No.1 Company and its directors are jointly and severally liable to pay following amounts to the Execution Applicant –

Sr. No	**Particulars**	**Amount in Rs.**
1.	Realistic Assessment	3,10,41,600/-
2.	Expert Remuneration	50,000/-
3.	Compensation for mental harassment	10,00,000/-
Total Compensation amount in Rupees		**3,20,91,600**

134. That the Execution Applicant is calming an amount of Rs.3,20,91,600/- and therefore, he is ready and willing to pay

appropriate court fee on Rs.3,20,91,600/-, (Three Crore, Twenty Lakhs, Ninety One Thousands and Six Hundred Only) claimed as relief and compensation by the Executant Applicant.

135. That considering the damage and loss caused to the Execution Applicant due to hot carbon soot and untreated effluent pollution done by the Respondent No.1 to 6, it has become just, fair, proper, necessary and expedient in the interest of justice and equity that an amount of Rs.3,20,91,600/- (Three Crore Twenty Lakh Ninety One Thousand and six Hundred only) needs to be granted to the Execution Applicant for the losses, harassment and mental agony suffered for past years. Hence the present application for the reliefs as prayed for.

136. The Applicant believes that as per law, every legitimate national or multinational corporation has to respect the fundamental rights of the citizens of India and have to operate within the bracket of conditional permissions and sanctions. If any of the conditions of consents/permissions given to these corporations are violated, their permissions/ consents stand suspended and all the activities they do thereafter are considered to be in violation of the law of the nation. That the Respondent Nos. 1to 6 are willfully subscribing to the violation of law and infringement of Applicant's fundamental right to live in a clean environment.

137. That the Respondent Nos. 1 to 6 has the responsibility to show respect and follow all the laws of the nation. The Respondent No.1 Company has consistently violated the consent to operate terms and conditions and have willfully ignored fundamental rights of the citizens of the country.

138. Under the Water (prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986, the Respondent authorities have been entrusted with a paramount responsibility to protect the environment and to curb the pollution that may cause during the process of trade and commerce. Enormous powers such as power to disconnect water, electricity including closure have been granted to these officials so as to ensure healthy environment to the citizens of this country. But instead of opting for the protection of environment, the officials of the Respondent authorities chose to keep responding mechanically to the complaints filed by the Applicant by merely sending show-cause notices to the polluters i.e. the Respondent No.1 Company. The great power that has been granted to the board officials is refusal renew or grant fresh consent to those who disregard the consent terms. But this power too seems to have been taken lightly by the officials of the Respondent No.10. That the Respondent authorities instead of applying 'polluter pays' principle, it seems they have used 'praise the polluter' principle.

139. That the Respondent Nos. 1 to 6 have knowing fully well ignored the provisions of law and the Respondent authorities have tuned blind eye towards this wealthy multi-national company by doing delinquencies in their official duties and by allowing the sever loss to the Applicant, allowing the death of cattle of the Applicant, degradation of flora and fauna on the Applicant's land, destruction of his mango orchard and countless destruction by allowing ground water pollution.

140. The failure of the Respondent authorities to perform their duties has resulted in the present situation and in violation of all environmental laws and the Constitution of India;

141. 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;

142. **Direction for Compensation**: In light of the reasons stated above, Respondent No.1 Company and its directors, jointly and severally, should be directed to pay a compensation of Rs. 7,67,10,937.50/- (Rupees Seven Crore Sixty Seven Lakh Ten Thousand Nine Hundred and Thirty Seven and Fifty Paisa) to the State, as per the established environmental liability. Additionally, Respondent No.1 and its directors should be directed to pay Rs.3,20,91,600/-, (Three Crore, Twenty Lakhs, Ninety One Thousands and Six Hundred Only), excluding the emoluments payable to the Expert and the compensation for mental agony, in accordance with the assessment report prepared by Dr. Rahul Ramesh Mungikar, annexed as **Annexure A-6** as well as Form II of the Applicant.

143. **RELIEF SOUGHT**

For the reasons stated above, it is humbly prayed that this Honorable Tribunal may kindly:

(A) direct Respondent No.1 Company and its directors jointly and severally to pay compensation/damages for the personal loss to the Execution Applicant, to the tune of Rs. Rs.3,20,91,600/- (Three Crore Twenty Lakh Ninety One Thousand and six Hundred only), which includes assessment report of Dr. Rahul Ramesh Mungikar, remuneration of Dr. Rahul Ramesh Mungikar for advancing his expertise and compensation for mental harassment & Agony suffered

by the Execution Applicant, along with interest from the date of claim of the Applicant till its recover from the Respondent No.1;

(B) direct Respondent No.1 Company and its directors jointly and severally to pay compensation/damages to the tune of Rs. Rs.7,67,10,937.5/- , as stated above with interest, in addition to count of days of non-compliance and violation of environmental norms by the Respondent No.1 Industry;

(C) Direct the Respondents to pay cost of the present application to the Applicant;

(D) Direct the MPCB to suspend the consent to operate of the project proponent till the necessary compliances has been made.

(E) Consider passing such further order or orders as may be fit proper and necessary in the facts and circumstances of the case in the interest of rendering justice and protection of environment.

Pune
Dated: 12th September, 2024

DEEPTI MAHURKAR
Advocate for the Applicant

ABHISHEK PHANSE
Advocate for the Applicant

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MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE, PUNE

Phone - (020) – 25811627
Fax - (020) - 25811029
Email : ropune@mpcb.gov.in
Visit At : http://mpcb.gov.in

3rd Floor, "Jog Center"
Wakdewadi, Mumbai-Pune Road,
Pune – 411 003.

Orange/L.S.I.

Date: 19/07/2017

Consent No: RO-PUNE/CONSENT/ 1707000822

Consent to Operate under Section 26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 5 of the Hazardous Wastes (Management, Handling & Transboundry Movement) Rules 2008

[To be referred as Water Act, Air Act and HW (M&TM) Rules respectively].

.....

CONSENT is hereby granted to

M/s Cikautxo India Pvt. Ltd.
S. No. 662, Talegaon Dabhade,
Tal – Maval, Dist – Pune.

located in the area declared under the provisions of the Water Act, Air act and Authorization under the provisions of HW(M&TM) Rules and amendments thereto subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. **The Consent to Operate is granted for a period up to: 31.07.2021.**

2. **The Consent is valid for the Manufacturing of –**

Sr. No.	Product Name	Maximum Quantity	UOM
1	Rubber	150.0	Ton/M
2	Nylon	25.0	Ton/M

3. **CONDITIONS UNDER WATER ACT:**

(i) The daily quantity of trade effluent from the factory shall not exceed **3.5 M^3.**

(ii) The daily quantity of sewage effluent from the factory shall not exceed **8.0 M^3.**

(iii) **Trade Effluent :**

Treatment: The applicant shall provide comprehensive treatment system consisting of primary / secondary and/or tertiary treatment as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of the treated effluent to the following standards.

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1	pH	Between	5.5 to 9.0	
2	Suspended Solids	Not to exceed	100	mg/l.
3	BOD 3 days 27 Deg. C.	Not to exceed	100	mg/l.
4	COD	Not to exceed	250	mg/l.
5	Oil & Grease	Not to exceed	10	mg/l.
6	T.D.S.	Not to exceed	2100	mg/l.
7	Chlorides	Not to exceed	600	mg/l.
8	Sulphates	Not to exceed	1000	mg/l.

(iv) **Effluent Disposal:** The treated trade effluent shall be sent to CETP, Talegaon for further treatment.

(v) **Sewage Effluent Treatment:** The applicant shall provide comprehensive treatment system as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of treated effluent to the following standards.

(1)	Suspended Solids	Not to exceed	100 mg/l.
(2)	BOD 3 days 27° C.	Not to exceed	100 mg/l.

(vi) **Sewage Effluent Disposal:** The treated domestic effluent shall be soaked in a soak pit, which shall be got cleaned periodically. Overflow, if any, shall be used on land for gardening / plantation only.

(vii) **Non-Hazardous Solid Wastes:**

Sr. No.	Type Of Waste	Quantity	UOM	Treatment	Disposal
1.	Rubber Scrap	25.0	Ton/M.	---	By Sale

(viii) **Other Conditions:**
1) Industry should monitor effluent quality regularly.
2) Industry shall develop green belt of local species in 1/3rd of total area.

4. **The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977 (to be referred as Cess Act) and amendment Rules, 2003 there under**

The daily water consumption for the following categories is as under:

(i) Domestic	...	10.0 CMD
(ii) Industrial Processing	...	20.0 CMD
(iii) Industrial Cooling	...	25.0 CMD
(iv) Agriculture / Gardening	...	10.0 CMD

The applicant shall regularly submit to the Board the returns of water consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

5. **CONDITIONS UNDER AIR ACT:**

(i) The applicant shall install a comprehensive control system consisting of control equipments as is warranted with reference to generation of emission and operate and maintain the same continuously so as to achieve the level of pollutants to the following standards:

a. Control Equipment:
Dust collector of adequate capacity shall be provided to all sources of SPM / TPM and shall be operated properly.

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a. **Standards for Emissions of Air Pollutants:**

(i)	SPM/TPM	Not to exceed	150 mg/Nm^3
(ii)	SO_2	Not to exceed	186 Kg/day

6. **Conditions for D.G. Set**
   a. Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.
   b. Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
   c. The industry shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise to less than 55 dB(A) during day time and 45 dB(A) during the night time. Day time is reckoned between 6 a.m. to 10 p.m and night time is reckoned between 10 p.m to 6 a.m.
   d. Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper sitting and control measures.
   e. Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.
   f. A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use
   g. D.G. Set shall be operated only in case of power failure
   h. The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set

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7. **Standards for Stack Emissions:**

(i) **The applicant shall observe the following fuel pattern:-**

Sr. No.	Type Of Fuel	Quantity	UOM
1	HSD	300.0	Ltr/day
2	Furnace Oil	2000.0	Lit/day

(ii) **The applicant shall erect the chimney(s) of the following specifications:-**

Sr. No.	Chimney Attached To	Height in Mtrs.
1	Boiler	30.0
2	DG Set (500 KVA x 2 Nos)	5..0Each, above the roof

(iii) The applicant shall provide ports in the chimney/(s) and facilities such as ladder, platform etc. for monitoring the air emissions and the same shall be open for inspection to/and for use of the Board's Staff. The chimney(s) vents attached to various sources of emission shall be designated by numbers such as S-1, S-2, etc. and these shall be painted/ displayed to facilitate identification.

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(iv) The industry shall take adequate measures for control of noise levels from its own sources within the premises so as to maintain ambient air quality standard in respect of noise to less than 75 dB(A) during day time and 70 dB(A) during night time. Day time is reckoned in between 6 a.m. and 10 p.m. and night time is reckoned between 10 p.m. and 6 a.m.

(vi) **Other Conditions:**

1) The industry should not cause any nuisance in surrounding area.
2) The industry should monitor stack emissions and ambient air quality Regularly.

8. CONDITIONS UNDER HAZARDOUS WASTE (MANAGEMENT, HANDLING & TRANSBOUNDRY MOVEMENT) RULES, 2008:

(i) The Industry shall handle hazardous wastes as specified below.

Sr. No.	Type Of Waste	Quantity	UOM	Disposal
1	5.1 Used/spent oil	12.50	MT/Yr	Sale to auth reprocessor
2	33.3 Discarded containers / barrels / liner	6.0	MT/Yr	CHWTSDF
3	33.2 Sludge from treatment of waste water	10.0	Kg/M	CHWTSDF
4	Parafinic Oil	30000	Lit/M	CHWTSDF
5	Toluene	100		CHWTSDF
6	Carbon Black	12	MT/M	CHWTSDF
7	Sulphur	100		CHWTSDF
8	6.4 Flue Gas dust and other particulate	9.36	MT/A	CHWTSDF

(ii) Treatment: - NIL.

1. The authorization is hereby granted to operate a facility for collection, storage, transport & disposal of hazardous waste.
2. The industry should comply with the Hazardous Waste (M&TM) Rules, 2008.

a. Whenever due to any accident or gas leakage or other unforeseen act or even, such emissions occur or is apprehended to occur in excess of standards laid down, such information shall be forthwith Reported to Collector, Directorate of Industry, Safety and Health, Police Station, Fire Brigade, Directorate of Health Services, Department of Explosives, Board and Local Body and the production process should be stopped by taking all necessary safety measures. The industry shall also monitor the emission and ensure that the emissions do not cause any harm or nuisance in the surrounding. The industry should not restart the process without permission of the Board and other statutory organization as require under the law.

b. The unit has to display and maintain the data online outside the factory main gate in Marathi & English both on a 6'x4' display board in the manner and the report of the compliance along with photograph shall be submitted to this office & concerned Regional Office/ Sub Regional Office.

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c. It shall be ensured that the Hazardous waste is handled, managed & disposed of strictly in accordance with the Hazardous Waste (M & TM) Rules, 2008.

9. Industry shall comply with following additional conditions:

i. The applicant shall maintain good housekeeping and take adequate measures for control of pollution from all sources so as not to cause nuisance to surrounding area / inhabitants.
ii. The applicant shall bring minimum 33% of the available open land under green coverage/ tree plantation.
iii. Solid waste – The non hazardous solid waste arising in the factory premises, sweepings, etc., be disposed of scientifically so as not to cause any nuisance / pollution. The applicant shall take necessary permissions from civic authorities for disposal to dumping ground.
iv. The applicant shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by he applicant to maintain compliance with the terms and conditions of the consent. In the absence, the applicant shall stop, reduce or otherwise, control production to abide by terms & conditions of this consent regarding pollution levels.
v. The applicant shall not change or alter quantity, quality, the rate of discharge, temperature or the mode of the effluent / emissions or hazardous wastes or control equipments provided for without previous written permission of the Board.
vi. The applicant shall provide facility for collection of environmental samples and samples of trade and sewage effluents, air emissions and hazardous wastes to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
vii. The applicant shall make an application for renewal of the consent at least 60 days before the date of the expiry of the consent.
viii. The firm shall submit to this office, the 30th day of September every year, the Environmental Statement Report for the financial year ending 31st March in the prescribed Form-V as pre the provisions of rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
ix. As inspection book shall be opened and made available to the Board's officers during their visit to the applicant.
x. The applicant shall install a separate electric meter showing the consumption of energy for operation of domestic and industrial effluent treatment plants and air pollution control system. A register showing consumption of chemicals used for treatment shall be maintained.
xi. Separate drainage system shall be provided for collection of trade and sewage effluents. Terminal manholes shall be provided at the end of collection system with arrangement for measuring the flow. No effluent shall be admitted in the pipes / sewers down- stream of the terminal manholes. No effluent shall find its way other than in designed and provided collection System.
xii. Neither storm water nor discharge from other premises shall be allowed to mix with the effluents from the factory.

10. This is without prejudice to any other permission required under any of the laws, by-laws or regulations in force.

11. This Board reserves the right to add / amend / revoke any condition in this consent and the same shall be binding on the applicant.

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12. Industry shall submit Bank Guarantee of Rs. 25,000/- within one Month period for a period of one year in favor of "Regional Officer, MPCB, Pune", towards operation & maintenance of ETP, else this consent will stand automatically cancelled.

13. This consent is having overriding effect on the earlier granted consent to operate vide no. MPCB/15/12506 dtd. 28.09.2015.

14. The Capital investment of the industry is Rs. **45.67 Crore.**

REGIONAL OFFICER * PUNE * M. P. C. BOARD

For AND ON BEHALF OF M.P.C. BOARD

(SURYAKANT S. DOKE)
REGIONAL OFFICER, PUNE

To,
M/s Cikautxo India Pvt. Ltd.
S. No. 662, Talegaon Dabhade,
Tal – Maval, Dist – Pune.

Copy to:
Sub-Regional Officer, MPCB, P – I / P – II / P.C. / Satara / Solapur.

Received Consent fee of –

Sr. No.	Amount(Rs.)	DD/ Transaction No.	Date	Drawn On
1	150000.00	254204	31.07.2015	SBI Bank
2	75000.00	254186	29.07.2015	SBI Bank
3	100.00	254187	29.07.2015	SBI Bank
4	15000.00	254207	10.08.2015	SBI Bank
5	15000.00	TXN1705003026	31.05.2017	---

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