

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

Original Application No. 79 of 2020

IN THE MATTER OF:

Lt. Col. Ms. Shomi Sugathan ... Applicant

VERSUS

M/s. Swami Tyres and others ... Respondents

INDEX

Sr. No.	Particulars	Page No.
1	Objections of the Applicant to the Action Taken Report dated 16/06/2021 along with Affidavit in support.	87 - 94

Pune

Date- 22/07/2021


Vaibhav Jathar,
Advocate,

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

Original Application No. 79 of 2020

IN THE MATTER OF:

Lt. Col. Ms. Shomi Sugathan ... Applicant

VERSUS

M/s. Swami Tyres and others ... Respondents

**OBJECTIONS ON BEHALF OF APPLICANT TO THE
ACTION TAKEN REPORT DATED 16/06/2021 FILED BY THE
MPCB, RESPONDENT NOS.2 AND 4.**

Most Respectfully Showeth:

1. I, Shri. P.K. Sugathan, Age - 67 Years, Occ - Retired, R/at - Sugu Nivas, Survey No. 190, Near Navalakha Godown, Hadapsar-Saswad Road, Pune - 412 308, *General Power of Attorney Holder for my daughter Lt Col Shomi Sugathan, the applicant* do hereby state on solemn affirmation as under:-
2. Applicant states that, Applicant has filed the present Original Application for grievance of the illegal tyre-retreading activity causing irreparable damage to the environment and ecology due to air and noise pollution in total violation of environmental norms by the Respondent No.1 at Ganesh Nagar, Village-Fursungi, Taluka-Haveli, Dist-Pune.



3. That, the above-mentioned Original Application was listed for admission before Hon'ble Tribunal on 10/11/2020 and the Hon'ble Tribunal after hearing the applicant was pleased to direct the MPCB to take further action as per law and file an action taken report before the next date.

4. That thereafter the report as directed is submitted by the MPCB on 16/06/2021, with following observation which are not in consonance with actual position. Therefore, Applicant would like raise her objections to bring the true facts on record to assist this Hon'ble Tribunal for better adjudication of the matter.



<u>Objections to the Action taken Report</u>		
Sr. No.	MPCB Action	Applicant's Objections
i.	Respondent industry not found in operations	This is totally false, said industry is in full swing operations day & night and said fact is admitted by the Industry as disclosed in Para-3 (vii) in the report itself.
ii.	Respondent is engaged in tyre retreading activity. For this purpose, 4 nos. of bounder have been installed. Out of 4, only 1 is in operation. Out of 4	Admitted fact, All four (4) bounders are in operation.

	machines, 2 are old technology and not in operation.	
iii.	The respondent's is having 2 nos. of baby boilers wood fired. Out of which one is not in operation. For the working boiler, Respondent industry has provided stack of approximately 45 feet in height.	Both boilers are in full operations for 4 bounders and height of boiler stack is not more than 25 feet and other boiler is not more than 25 feet. These less height spreading fly ash in the vicinity causing dust pollution.
iv.	Three phase power supply of the respondent unit is disconnected by MSEDCL Authority. Single phase power supply is not disconnected. Industry owner and others are staying on 1 st , 2 nd and 3 rd floor.	Three phase Electricity disconnection is disconnected but in actual Electricity (Unauthorised) connection is live. MPCB has intentionally not provided the meter readings with disconnection Order and reading at the time of visit is not provided with photographs.
v.	Industry representative	Building construction is not as per the



	<p>informed that total plot area is 2000 Sq. Feet. On that the building structure of G+3 is constructed.</p>	<p>prevailing laws and marginal space is misused for the installation of equipment that can cause hazard of fire, resulting in deaths or physical harm to the life of neighbours also. No fire safety measures are taken by the industry.</p>
	<p>Boilers are installed at margin space adjacent to compound wall.</p>	<p>Admittedly, installation of boiler is not as per the norms and marginal space is for free escape in case of accident. But the Respondent Industry has created threat to all in surrounding area. In case of blast of boilers, it is going to cause serious injuries to the human life, as we cannot predict the accidents/incidents due to these illegal operations without taking care of operating standards of boilers.</p>
vii.	<p>Industry representative reported that they are using D. G. sets to carry out production whenever there is load or work</p>	<p>Admittedly, despite the closure, industry itself has admitted that they are operating their unit in illegal manner.</p>



order.	
--------	--

5. In addition to the above objections, Applicant would like to raise following objections to understand the careless and reckless conduct of the Industry :

- i) That at paragraphs 1, 2, 3 and 4 of the report, it is mentioned that the MPCB had issued Proposed Directions on 26/08/2019 and thereafter issued Closure Direction on 09/12/2019 to Respondent No.1. That after the order dated 10/11/2020 of the Hon'ble Tribunal MPCB officials visited the Industry of Respondent No.1 on 27/01/2021 and on 16/03/2021 has written letter to Collector, Pune District to issue conditional order for removal of nuisance U/s 133 of Cr.P.C against the Respondent No.1. That in this context, before proceeding to deal with the said findings, some dates and events are important of the issue in hand and said dates and events which are as follows:



Sr. No.	Date	Event
1	Year 2002	Respondent No.1 started illegal Commercial Tyre Retreading Business at Gut No. 157, Ganesh Nagar, Fursungi, T-Haveli, Dist-Pune.
2	Year 2017 to 2019	Applicant and other residents filed several complaints to the respondent authorities against the Respondent Authorities.

3	26/08/2019	MPCB issued Proposed Directions to Respondent No.1
4	09/12/2019	MPCB issued Closure Directions to Respondent No.1
5	19/06/2020	The Electricity Connection of the Respondent No.1 was disconnected.
6	20/06/2020 To till today	Respondent No.1 carrying illegal activity by using the Diesel Generator sets and unauthorized electricity supply.
7	16/03/2021	MPCB has written letter to Collector, Pune District to issue conditional order for removal of nuisance U/s 133 of Cr.P.C against the Respondent No.1



- ii) In this context, it is submitted that, from the dates and events mentioned above, it is clear that, the said unit of the Respondent No. 1 was carrying the business of the Tyre-retreading without the valid consent from the MPCB however, MPCB has failed to enforce the closure directions and has only ride on paper horse and therefore, industry unit kept on running in illegal manner on diesel Generator sets causing further pollution, despite there being closure directions and therefore responsibility needs to be fixed on those officials who allowed these illegal activity to continue.

6. That, the MPCB has reason best known to them failed to impose "Environmental Compensation" on Respondent No.1 despite being directed by this Hon`ble Tribunal to take action as per law which includes action of imposing Environmental Compensation and Environmental Compensation needs to be assessed from year 2002 till date.
7. Therefore, by considering the above serious illegal conduct of the respondent industry, appropriate compensation may kindly be imposed for restoration and restitution of the environment and ecology. And appropriate further actions may kindly be issued.



PLACE: PUNE

DATE- 22/07/2021


VAIBHAV JATHAR

[Advocate for the Applicant]


Applicant

:: VERIFICATION ::

I, Shri. P.K. Sugathan, Age - 67 Years, Occ - Retired, R/at - Sugu Nivas, Survey No. 190, Near Navalakha Godown, Hadapsar- Saswad Road, Pune - 412 308, *General Power of Attorney Holder for my daughter Lt. Col Shomi Sugathan*, the applicant do hereby solemnly affirm and state on oath that the contents of this Objections to report are read over and explained to me in

Marathi by my Advocate, which I believe to be true and correct to the best of my own knowledge and record available with me

Hence verified at Pune on this 22nd day of July, 2021.


DEPONENT

Explained & identified by:

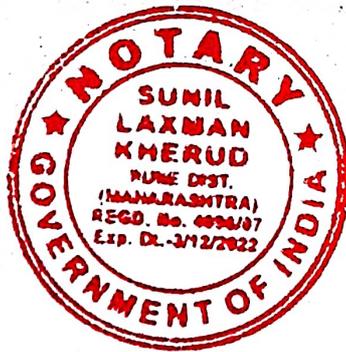

VAIBHAV JATHAR
(Advocate for the Applicant)



BEFORE ME


SUNIL LAXMAN KHERUD
NOTARY GOVT. OF INDIA
Regd. No. 4996/07
Noted & Register No 501/2021

SUNIL LAXMAN KHERUD
NOTARY, GOVT OF INDIA
B-3, Maniratan Society
Aareneswar, Pune
M-9371830361



22 JUL 2021

