

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH
AT PUNE
ORIGINAL APPLICATION NO. 44/2023**

ARYAVART FOUNDATION

..... APPLICANT

VS

M/S LOTE PARSHURAM ENVIRONMENT PROTECTION
CO-OP SOCIETY LTD & ORS.

.... RESPONDENTS

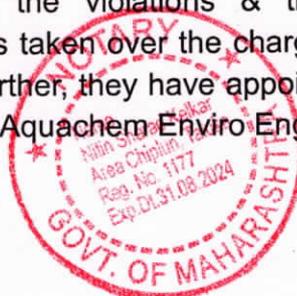
REJOINDER ON BEHALF OF RESPONDENT NO.2 TO THE REPLY AFFIDAVIT FILED BY THE RESPONDENT NO. 4, MIDC.

I, Sanjay Jirapure, being the 57 years, Occupation-Service, the Sub Regional Officer of Maharashtra Pollution Control Board at Chiplun having my office at Maharashtra Pollution Control Board, 2nd Floor, Parkar Complex, Near Chiplun Municipal Council, Chiplun 415 605, do hereby state on solemnly affirmation as under.

1. I say that I am the Sub Regional Officer, Chiplun Of Respondent No.2, the Maharashtra Pollution Control Board, and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the above matter and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the reply filed by Respondent No. 4 MIDC. Nothing in the above-mentioned reply filed by Respondent No. 4 MIDC may be deemed to have been admitted for mere want of specific denial.
2. I say and submit that Respondent no. 4 has mentioned in paragraph 3.2 of their reply that, MPCB has the regulatory duty, function, and authority to carry out inspection of industries, take samples and take action against polluting industries, which is true.
3. I say and submit that regarding the averments in paragraph 3.3 of the reply, this Respondent states that it has recently vide communication dated 29.03.2023 renewed the Consent to Operate to Lote Parshuram Environment Protection Co-

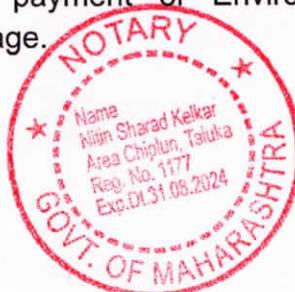
Operative Society Ltd., with a total capacity of (Industrial Effluent) 10 MLD. The said Consent to Operate for operation of Common effluent treatment plant has been granted as per application received from Lote Parshuram Environment Protection Co-Operative Society Ltd. The Board grants permissions of the various activities to the industries at applied locations irrespective of the Applicant & also whether the land is owned or lease hold land.

4. I say and submit that as far as paragraph 3.4 is concerned, it relates to the internal management between the CETP & the MIDC.
5. I say and submit that regarding the averments in paragraph 3.5 of the reply, this Respondent states that Lote Parshuram Environment Protection Co-Operative Society Ltd., has handed over the CETP to MIDC in the year 2018 vide letter dated.06-03-2017. I say that as the operation of the CETP before 2018 was not upto the mark, the MPCB has directed the MIDC to operate & maintain the CETP. I say that MPCB is only regulatory Authority for Water, Air, Hazardous Waste & Noise Monitoring, Bio-Medical Wastes as well as Municipal Solid Wastes etc. I say that it is an admitted fact that MIDC has engaged the expert agency M/s. Aquachem Enviro Engineers Pvt. Ltd., Regd.Office at 5th & 6th Floor, Sun Vision Classic, Hanuman Road, Vile Parle (E), Mumbai-400 057 for handling the operation and maintenance of CETP. Therefore, the MIDC and the said agency have to oversee the functioning of the CETP within the applicable parameters. Hereto annexed and marked **Annexure 1** is the letter dated 5.4.2018.
6. I say and submit that regarding the averments in paragraph 3.6 of the reply, this Answering Respondent states that since the MIDC had knowledge that the CETP was not meeting the required norms, the MIDC has failed to take any action whatsoever, including informing MPCB.
7. I say and submit that the Joint Committee of CPCB and MPCB has considered last 5 years data (April 2018 to April 2023). As per the non compliances of discharge standards, the committee computed environmental compensation of Rs. 3,68,40,000/- by using CPCB methodology which is referred by the Hon'ble NGT in its order dtd. 28.08.2019 in OA 593/2017 and OA No 673 of 2018. The Environmental compensation of Rs. 3,68,40,000/- was imposed on the basis of causing environmental damage to the environment due to violation of Environmental Norms during the above periods. The Operator of the CETP is overall responsible for the violations & thus responsible for paying the compensation. MIDC has taken over the charge for operation & maintenance of the CETP from 2018. Further, they have appointed expert agency working in the field of environment M/s. Aquachem Enviro Engineers Pvt. Ltd., (AEEPL) from 1st



March 2018. I say that once the MIDC has taken over the CETP, now it cannot avoid the responsibility as they on their own have appointed the above mentioned M/s. Aquachem Enviro Engineers Pvt. Ltd., (AEEPL) to oversee the operations of the CETP.

8. I say and submit that regarding the averments in paragraph 5 of the reply, this Respondent states that the Committee has observed the non compliances of the CETP based on the past sampling by MPCB and also observed that the CETP has violated the discharge standards due to inadequate treatment and improper operation treatment units/process installed in CETP.
9. I say that regarding the averments in paragraph 6 of the reply this Respondent states that MIDC is the facility developer & also provider of all infrastructure facilities such as road, water supply scheme, effluent collection, water drainage system, street lights & CETP etc. Therefore, the facility developer is responsible for maintaining operation & maintenance of all above facilities.
10. I say and submit that regarding the averments in paragraph 7.1, this Respondent states that MPCB being the regulatory Authority, is issuing various directions to the defaulting industries, is carrying inspections of industries and carrying out samplings and accordingly taking legal actions against defaulting industries.
11. I say that as far as paragraph 8(ii) is concerned, the contents are true.
12. I say that regarding the averments in paragraph 8 (iii) this Respondent states that the CETP has violated the discharge standards as prescribed by the Board, the period violation was considered from 2018 to 2023 accordingly Environmental compensation has been imposed. During the above period CETP was operated by MIDC through expert agency. The M/s. Aquachem Enviro Engineers Pvt. Ltd., (AEEPL) is operating CETP on behalf of MIDC. As per joint committee report CETP operator is responsible for Environmental compensation. And also reported that, operator may consider to collect part of compensation from defaulting industries those were responsible. I deny that the MIDC is working on behalf of MPCB since it has altogether different role to play.
13. I say that, the Committee has compiled last 5 years data (April 2018-April 2023) considering the violations during this period. In this case, MIDC being the operator is responsible for payment of Environmental Compensation for causing Environmental Damage.



14. I say that regarding the averments in paragraph 10, it is submitted that as per joint committee report para no. 6.5, CETP operator on account of inadequate treatment and improper operation of treatment units/process installed in CETP that led to the violation of the discharge standards. Here, in this case MIDC being the operator, is responsible for payment of environmental compensation for causing environmental damage due to violation of environmental norms for the period of violation considered, as above.
15. I say and submit that regarding the contentions in paragraph 11, this Respondent states that the Committee has compiled last 5 years data (April 2018 to April 2023) considering the violations during this period accordingly environmental compensation was imposed on responsible CETP operator with operator may consider to collect part of compensation from defaulting industries which were responsible.
16. I say that regarding the averments in paragraph 12, this Respondent states that in the rainy season there may be chances of discharge from CETP into the natural drain which was passing through MIDC area from CETP outlet. Therefore, provision of dike-wall should be provided by the MIDC.
17. I say that regarding the averments in paragraph 13 & 14 this Respondent states that the table given in paragraph 13 is wrong as the actual period considered by the Committee is April 2018 to April 2023. Thus, being a five year period and not six as contended by the MIDC, the joint committee has considered period from April 2018 to 2023 which is based on actual data & it is correct. CETP violated the discharge standards due to inadequate treatment and improper operation of treatment units/process installed in CETP. I say that the discharge of effluent not conforming to the discharge standards by member industries i.e. defaulting industries.
18. I say and submit that in respect of the averments in paragraph 15, this Respondent states that it refers to the letters written by the CETP Operator to Respondent No. 1.
19. I further say that regarding the averments in paragraph 17, this Respondent states that the MIDC has submitted list of violating SSI industries however those LSI/MSI category industries which are violating CETP inlet norms, the list of those industries has not been communicated by the MIDC.



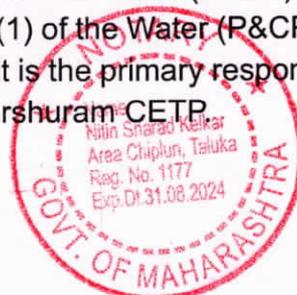
20. I say that regarding the averments in paragraph 18, this Respondent says that the Committee has considered-R-Rs. 500/-based on the order dated 06.02.2020 of Hon'ble NGT, Principal Bench, New Delhi passed in 510/2019 in the matter of Aditya Singh Chauhan Vs State of Gujarat related to non-compliance of CETP at Narol. Since the above order has considered the fact that that majority of the industries are in 'Red' category, CETP itself is 'Red' category, and almost continuous non-compliances of consented parameters i.e. discharge standards for more than five years therefore, instead of R-250 which may be normal factor, present situation require the factor to be higher i.e. R-. Hereto annexed and marked **Annexure 2** is the order of the Hon'ble NGT dated 06/02/2020.

21. I say that regarding the averments in paragraph 19 & 20, MPCB is only regulatory Authority for Water, Air, Hazardous Waste, Noise Monitoring. I say that as per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the brief functions of a State Board shall be:-

- A) State Pollution Control Board advise to the State Government on any matter concerning the prevention, control or abatement of water pollution.
- B) State Pollution Control Board to inspect sewage or trade effluents plants for the treatment of sewage and trade effluents for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;
- C) State Pollution Control Board to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair-weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents.

22. I say that regarding the averments in paragraph 21, this Respondent states that in view of continuous non-compliance of the discharge standards by the seven CETPs including Lote Parshuram CETP in Maharashtra, MPCB had issued direction to MIDC u/s 33A of the Water (Prevention and Control of Pollution) Act, 1974 vide letter No MPCB/JD9WPC/B-962 dated 6.3.2017 and directed to take over the operation of the non-conforming CETPs within a period of 3 months i.e on or before 31.5.2017.

In compliance of above, MIDC has taken over the operation & maintenance of Lote Parshuram CETP and engaged operator M/s Aquachem Enviro Engineers Pvt Ltd (AEEPL) from 1st March 2018. The Respondent No 2 MPCB has already issued Direction u/s 33A of the Water (P&CP) Act, 1974 and initiated action as per provisions of section 30(1) of the Water (P&CP) Act, 1974. MIDC is being principal operator of Lote CETP, it is the primary responsibility of MIDC for all operation and maintenance of Lote Parshuram CETP.



I say and submit that as per joint committee report para no. 6.5, CETP Operator on account of inadequate treatment and improper operation of treatment units/process installed in CETP that led for the violation of the discharge standards, Here, in this case MIDC being operator is responsible for payment of environmental Compensation for causing environmental damage due to violation of environmental norms for the period of violation considered, as above.

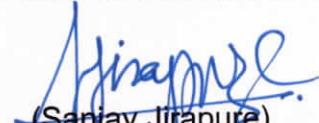
23.I say that vide order dtd. 17.04.2023, this Hon'ble Tribunal was pleased to constitute a Joint Committee consisting of one member each of CPCB & MPCB. MPCB is the nodal agency of the said committee. The Joint Committee had submitted detailed report as per the directives of Hon'ble NGT.

I say and submit the MPCB is only regulatory Authority for Water, Air, Haz. Waste, Noise Monitoring, Bio-Medical Wastes, Solid Wastes etc. The provisions of the Water (Prevention and Control of Pollution) Act, 1974, Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer of authority, and such person, officer of authority shall be bound to comply with such directions.

In this regard, the MPCB has already issued Direction u/s 33A of the Water (P&CP) Act, 1974 vide letter dated 6.3.2017 and initiated action as per provisions of section 30(1) of the Water (P&CP) Act, 1974. Therefore, it is the primary responsibility of MIDC for all operation and maintenance of Lote Parshuram CETP being principal operator of CETP. MIDC is successfully operating and maintaining CETP at Amravati, Patalganga.

Deponent

For and on behalf of Maharashtra
Pollution Control Board


(Sanjay Jirapure)
Sub Regional Officer-Chiplun.



VERIFICATION

I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is True to the best of my knowledge and belief, which is based on the records available in respect of the issue involved in the above-captioned Appeal. Nothing false has been stated herein.

For and on behalf of MPCB

(Signature)
(Sanjay Jirapure)
Sub Regional Officer-Chiplune



BEFORE ME

(Signature)

NITIN S. KELKAR
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Noted and Registered
at Sr. No. 635/2024
Date- 14/05/2024

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