

NEXT DATE
25/08/2023

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

O.A. NO. 102/2022 (WZ)

BETWEEN

Sagar Kantilal Devre **Applicant**

VERSUS

State of Maharashtra Respondent
through Chief Secretary
and 13 Others.

**REJOINDER TO REPLY FILED BY CPCB
BY RESPONDENT NOS. 6 TO 12 AND 14**

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1.	Rejoinder by Respondent Nos. 6 to 12 and 14 to the Affidavit filed by CPCB	

Date : 24-08-2023

Place : Pune

Filed by:

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Mulund East, Mumbai - 400081, Maharashtra, India.
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Raghunath Mahabal रघुनाथ भालचंद्र महाबळ
BE (Mechanical), ME (Industrial Management) VJTI Mumbai
Chartered Engineer, FIE, Arbitrator-IIE, LLM **ADVOCATE**

MOST RESPECTFULLY SUBMITTED

1. This rejoinder is being collectively filed by Respondents Nos. 6 to 12 and 14 (hereafter collectively referred to as **Respondents**) to the affidavit filed by Central Pollution Control Board (CPCB) dated 17/05/2023.

2. CPCB has only reproduced their extract of the Industry Classification document, that was enclosed and annexed by the Respondents. The specific challenge was to the Table No.4 on the contiguous Page No. 1055 (CPCB page no. 14).

3. The error in the methodology adopted has to be corrected. Industry can't be punished if CPCB is not responding OR is shying away from explaining the logic. CPCB has simply circumvented the answer to the pinpointed error.

4. Hon'ble Tribunal is armed with the Judicial Member and Expert Member in the ratio 1:1. i.e. it shows that technical adjudication is equally important along with the legal adjudication.

5. 'National Green Tribunal Act 2010' u/s. 22 allows appeal to Hon'ble Supreme Court only to be treated as that under CPC s.100. i.e., as 2nd appeal on the law points. As such technical point raised ought to be dealt with by the Hon'ble Tribunal at this stage only.

6. As per the CPCB's printed and published document only, RMC Plants have only Particulate Matter as the pollutant. There is admittedly no water pollution OR hazardous waste pollution from RMC units. hence there is NIL (negative) marks for such pollution. There are only 10 (negative) marks due to air pollution that can be there form such RMC plants.

7. The method of 'normalization' of Pollution Index mentioned in the CPCB Table F-4 calculation Sheet is totally illogical, absurd and scientifically-technically incorrect. It doesn't stand any test of ordinary common sense.

8. When RMC industry doesn't have any negative points on grounds of pollution from water and hazardous waste, there is no logic is multiplying the 10 (negative) marks given only for air-pollution by 2.5 times; just because CPCB wants to 'normalize' 'Pollution Index' (PI) marks to 100.

■ **If someone has scored ZERO marks in all subjects and scored only 10 marks in one subject, will BOARD 'normalize' the marks by multiplying marks of one subject, by no. of other subjects, to declare him pass OR fail?**

9. Respondents are pressing this point vehemently because this point drastically changes the following.

- a) RMC plants will be falling under WHITE Category if the total PI Score remains as 10 out of 100, without multiplying by $(100/40 = 2.5)$
- b) The WHITE industry is allowed in different zones where even GREEN industry is not permitted, including in ESZ
- c) If the penalty is to be imposed for any violation, on 'polluter pays principle' basis then it will be only towards the pollution caused from 'air pollution due to Particulate Matter' without there being any other polluting gases AND their effect if any on the adjacent environmental recipient bodies.
- d) The formula used by MPCB in that case becomes totally irrelevant and non-applicable as it was evolved in Paryavaran Suraksha matter which was mainly related to non-functioning of ETP/STP/CETP where water pollution was the issue. water pollution is totally absent in case of RMC plants.

10. Therefore, Respondents state that either CPCB should clarify the logic by rebutting the specific error pointed out OR the benefit of such circumventing reply should be given to Respondents **OR the Hon'ble Technical Member is most humbly and respectfully urged to adjudicate on this technical issue by application of mind and**

by passing a speaking order. As submitted above, this shall make drastic impact on category, penalty amount and allowing the industry to exist even in GREEN Zone and ESZ.

11. Respondents state that till today, newly added Respondent No.15 / Urban Development Department (UDD), has not filed any Affidavit in reply as per Daily Order dated 18/05/2023 Point No.9.

12. As such, Respondent prays with folded hands that the specific directions should be given to CPCB to give the speaking clarification on the technical point raised AND/OR their concerned official be requested to remain present in the Hon'ble Tribunal on the next date of hearing, for cross examination on this point.

Note: The advance copy of this submission is circulated to all respondents by email.



Place: **Pune**
Date: **24-08-2023**

Advocate for Respondent
Nos. 6 to 12 and 14

1379

**Proof of Service**

Raghunath Mahabal <mahabal60@gmail.com>

NGT OA 102/2022 (WZ) Sagar Devre : Rejoinder by R-16-12,14 (RMC Plants)

1 message

Raghunath Mahabal <mahabal60@gmail.com>

24 August 2023 at 20:39

To: National Green Tribunal Pune <ngt-pune@gov.in>

Cc: "meesagardevre@gmail.com" <meesagardevre@gmail.com>, Aniruddha Kulkarni <aniruddha1488@gmail.com>, Saurabh Kulkarni <sdkadvocate@gmail.com>, Manasi Joshi <adv.manasi.joshi@outlook.com>, pooja natu <poojanatu@yahoo.co.in>

Bcc: advrbmahabal <adv.rbmahabal@gmail.com>, sachin gore <ssgore2005@gmail.com>

Sir

I am pleased to serve and circulate the advance copy of the Rejoinder reply to CPCB Affidavit.

Advocate for Respondent Nos. 6 to 12 & 14

= R.B.Mahabal रघुनाथ भालचंद्र महाबळ = +91-7400116222 = mahabal60@gmail.com =

On Wed, 23 Aug 2023 at 19:18, pooja natu <poojanatu@yahoo.co.in> wrote:

Sir,

We are concerned for Respondent No. 2&3 in OA No. 102/2022 (WZ) Sagar Devre Vs State of Maharashtra. PFA Reply Affidavit filed by R2 & R3 in the above matter as and by way of service upon you. Kindly acknowledge the receipt of the same.

Regards,

Adv. Pooja Natu

For Adv Manasi Joshi

B-7/3 Sarita Vaibhav, 119/2 Parvati,

Near Pu La Deshpande Garden, Sinhagad Road,

Pune 411030

Mob. 8975017046

**R-6-12,14 Rejoinder to CPCB.pdf**

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