

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE

APPEAL NO.30 OF 2023 (WZ)

IN THE MATTER OF:

AHMEDABAD DISTRICT COOPERATIVE MILK PRODUCERS'
UNION LTD. (UTTAM DAIRY) APPELLANT

VERSUS

GUJARAT POLLUTION CONTROL BOARD ...RESPONDENT

Affidavit in Re-joinder by Appellant

I, Maulik Joshi son of Mahendrabhai Joshi, aged about 49 years, occupation: in-charge managing director of the appellant, having office at: Opp. Ramdev Pir Temple, Near N.M.Padaliya Pharmacy College, Sarkhej-Bavla Highway Road, Navapura, Taluka- Sanand, District-Ahmedabad-382210, State-Gujarat do hereby solemnly affirm and state as under:

- 1.I stick to the averments and contentions raised in the memo of appeal and additional affidavit filed by me.
- 2.I state that I am in receipt of the soft copy of affidavit in reply on 16.1.2024 at 9:58 a.m. through my advocate (on whatsapp number) based in the Ahmedabad from the respondent. I state



that I deny all the contents and averments made in the affidavit in reply except specifically admitted by me.



3. I state that my non-dealing with paragraph wise of reply may not be treated as admission in any manner.

4. I crave leave of the Honourable Tribunal to file detailed and further affidavit in case of necessity arises.

5. I respectfully state that after perusing the affidavit in reply provided by the respondent in consonance with impugned order at Annexure-A-1 attached to the appeal memo, it is ostensible that the respondent being statutory authority has not got no regards for the truth and therefore it is too high for the respondent to file such affidavit in reply by making misleading contention to get disposal of the present appeal preferred by the appellant without entering into the merits of the case by this Honourable Tribunal and with a view to

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fill up the lacuna in the impugned order at Annexure-A-1 to the appeal memo. In fact, I respectfully submit that reading of the present affidavit in reply in consonance with the impugned order at Annexure-A-1 to the appeal memo reflects the modus operandi of the respondent. In fact, I further submit that nowhere in the impugned order it is stated by the Respondent that the said order is "interim" in nature and final order is to be passed later, on the contrary it is specifically mentioned in the said order that Appellant, if aggrieved may file an Appeal before this Hon`ble Tribunal and therefore the contention in regards to interim order is an afterthought only to cover the lacuna. Even at the time of virtual hearing dated 30.11.2023, respondent has tried to get the matter remanded back to cover up the lacuna.

6. Regarding averments and contentions raised in the paragraph no.3 of the reply, I deny the averments made in the said paragraph under reference as appellant never exhausts untreated



8.Regarding averments and contentions raised in the paragraph no.6 of the reply, I deny such averments and contentions raised in the reply by making misleading contention with a view to cover up the lacuna in the impugned order at Annexure-A-1 to the present appeal memo.

9.Regarding averments and contentions raised in the paragraph no.7 of the reply, I deny such averments and contentions raised in the reply.

10.Regarding averments and contentions raised in the paragraph nos.8,9 and 10 of the reply, I deny such averments and contentions raised in the paragraphs under reference except paragraph nos.8(i) and 8 (ii) of the reply. I submit that treated water carried out in tanker was in accordance with the prescribed quantity and quality of treated water as per the Consolidated Consent and Authorisation by the respondent board only and I submit that test report of treated water gathered from the tanker was having positive result (as per the standard prescribed by the respondent board)

technical knowledge of the said officer in terms of the Water (Prevention and Control of Pollution) Act, 1974. But respondent is also supposed to decide in accordance with General Framework For Imposing Environmental Damage Compensation rendered by the Central Pollution Control Board at Annexure-A-7 to the appeal memo by keeping test report of sample collected from tanker at Annexure-A-6 to the appeal memo which has not been done deliberately by the respondent with a view to recover heavy Environment Damage Compensation in pursuance of the impugned order at Annexure-A-1 to the appeal memo which is anytime without any basis, any reasoned in contravention of General Framework For Imposing Environmental Damage Compensation rendered by the Central Pollution Control Board at Annexure-A-7 to the appeal memo. I submit and reiterate that treated water never causes any damage to the environment.

11. Regarding averment made in paragraph no.10 of the reply, I admit such averment and



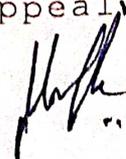
contention raised by respondent qua breach of conditions of consolidated consent authorization (CC & A) by the appellant allowing treated water to be transported outside the premises of the appellant but it was transported at the request of farmer to use for farming purpose only and same is permissible. But I submit and elucidate that by breach of conditions of consolidated consent and authorization (CC & A) of transporting treated water outside premises of the appellant, no where in the impugned order at Annexure-A-1 to the appeal memo assigns and obviates any reasons for damage to the environment to the tune of Rs.25 Lacs. I respectfully submit and state that actually there is no damage to the environment as tested water of tanker was merely treated water which is also substantiated from the test report of tanker water at Annexure-A-6 to the appeal memo.

12. Regarding averments and contentions raised in the paragraph nos.11,12 and 13 of the reply,



ARAT (IND)

I deny such averments and contentions raised by the respondent in the reply and I submit that at the time of collecting sample from natural drain and tanker, no opportunity was given to the appellant. Even before passing the impugned order at Annexure-A-1 to appeal memo, admittedly no opportunity of hearing was granted to the appellant with a view to recover Rs.25 Lacs from the appellant by hook or crook and that too bypassing all the settled principles of natural justice and also General Framework For Imposing Environmental Damage Compensation rendered by the Central Pollution Control Board at Annexure-A-7 to the appeal memo. Now astonishingly, the respondent in reply has come with a new version of impugned order at Annexure-A-1 to appeal memo as interim order with a view to cover up their own lacuna and culpable silent is again kept by respondent for elaborating distinction of the test reports of natural drain at Annexure-A-5 (Page 55) to the appeal memo and test report of sample collected from the tanker at Annexure-A-6 (page-57) to the appeal memo. I



submit that both reports at Annexure-A-5 and Annexure-A-6 are carrying different reports cum results and therefore averments made by the respondent, in more particularly in paragraph no.11 of reply, qua deemed admission of test report is denied. On the face of the record, it is also incorrect on the part of the respondent to canvass the test report of water sample collected is negative (as per the standard prescribed by the respondent board).



13. I submit that regarding averment made in the representation at Annexure-A-4 to the appeal memo, I have already given my explanation in paragraph nos.10 and 11 of this affidavit, therefore I adopt the same and with a view to avoid repeating the reply of present affidavit, I hereby adopt the same to answer remaining averments of paragraph under reference.

14. Regarding averments and contentions raised in the paragraph no.14 of the reply, I again deny such averments and contentions raised in the

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repy by using arm twisting method with a view to cover up the lacuna in the impugned order at Annexure-A-1 to the present appeal memo and I submit that respondent has put up novice version of the impugned order at Annexure-A-1 to the appeal memo in their reply in the paragraph under reference which is anytime contrary to guidance given by the respondent itself in the impugned order at Annexure-A-1 to the appeal memo, more particularly, on page no.28. The respondent cannot be permitted to add in the impugned order at the Annexure-A-1 to the appeal memo by way of affidavit.

15. I may crave leave of the Honourable Tribunal to submit corrected translation of Annexure-A-3 (Page no.47) to the appeal memo because translation of Annexure-A-3 (Page No.47) to the appeal memo was not properly translated. Copy of the corrected translation of said Annexure-A-3 to the appeal memo is appended hereto and marked as Annexure-A-10 to the present affidavit in rejoinder.



What is stated above is true and correct.

Solemnly Affirmed at Ahmedabad on the 25th day of January, 2024.



[Handwritten Signature]

Deponent

**MANAGING DIRECTOR
AHMEDABAD DISTRICT CO-OP
MILK PRODUCERS UNION LTD.**

Identified By

[Handwritten Signature: B. Patel]

Advocate

SR. No. 531 2024
SOLEMNLY AFFIRMED
BEFORE ME

[Handwritten Signature]

N. M. PATEL NOTARY
DATE: 25-1-24



GUJARAT POLLUTION CONTROL BOARD

Regional Office: Ahmedabad (Rural)

1, Daffodils Avenue, Nr. Zydus Research Centre,
Sarkhej- Bavla, N. H. No.8-a,
Moraiya-382213, Taluka Sanand, District- Ahmedabad,
Phone No.07-23222096

Email id (Regional Officer): ra-gpcb-ahme@gujarat.gov.in

Email id (Unit Head): uh-gpcb-ahme@gujarat.gov.in

website:<http://gpcbagn.gujarat.gov.in>

INSPECTION REPORT OF THE SITE VISIT

ID No.10126, Category/ Scale:R/S/Latitude/ Longitude
22-378895/7/966974

Sir,

This is to inform you that today on 28.08.2023,
upon site visit of your unit inspection is carried
out and during the inspection one (1) sample of water
has been collected for analysis.

During the site visit of your unit, it appears
that there were defects in respect of the environment
laws, on the basis of which before taking any
decision regarding pending application and/or
initiating any legal proceeding and/or charging any
compensation qua damage to the environment, you are
hereby informed in writing by giving situation/

points and suggestions with a view to provide an opportunity of hearing in the interest of justice.

In this regard, the notice is given to you that you can submit following written explanation/clarification/ compliance report within a period of three (3) working days in the Head office of the Board, Gandhinagar and this office or on XGN or through email.

The defects/ deficiencies observed during the site inspection:

- (1) That the Unit has generated industrial polluted water and exhausting the same in natural drain/stream near Advala Naka, Dhandhuka through tractor tanker (without registration number) and at present Dhandhuka Police has stopped the said tractor tanker and detained it. Therefore, after recollecting polluted water from the said stream/natural drain and remaining water from the tanker, the same is to be disposed of as per the Rules.

(2) Not to dispose of waste water outside the factory in any circumstances in future.

(3) Run the ETP Plant of your unit regularly and efficiently.

(4) Give explanation about SDB was found completely empty.

For and on behalf of G.P.C.B,

(Name, Designations and

Signatures of the officers) Sd/- illegible

Dr. P. S. Dave (S.O.)

The representation of the representative of the Unit visited: (Sign as applicable)

During the visit, the officials were informed to take steps regarding four (4) points for situation/ suggestions/ corrective measures. Wherein,

(1) I the undersigned fully agree with the suggestions/ situation. Yes

(2) I the undersigned do not agree with the point
no. __ from the situation/ suggestions stated in
it and therefore, I state as under:

Representative of the Unit/ Name, Designation and
Signature of the receiver of this notice:

Date: _____

SD/- illegible

MR. Prakash Kanzariya

Lab Chemist, Trainee (QA)