

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE  
ORIGINAL APPLICATION NO. 190 OF 2023

Tarapur Environment Protection Society

APPLICANT

Versus

Lavino – Kapur Cottons Pvt. Ltd. & others

RESPONDENTS

**AFFIDAVIT OF REJOINDER**

I, Mr. Gajanan Sahebrao Jadhav, Age- 51 years, Occ- Service, working as a CETP Manager with Tarapur Environment Protection Society, At:- Plot no. AM-29, Near Shivaji Nagar, MIDC-Tarapur/Boisar, Dist- Palghar, Pincode – 401506, do hereby solemnly affirm and state as under:

I SAY THAT,

1. The Reply as filed by the Respondent No.1 is false, baseless and untenable in the eyes of law.
2. At the outset Applicant states that common effluent treatment plants (CETPs) have a major role to play in the larger environment protection scheme as thought by the legislature and

brought under various enactments, rules and regulations. The entire defence of the Respondent No.1 is to deny their obligation to be part of this environment protections scheme and they claim to be self-sufficient in treating their effluents on the basis of Effluent Treatment Plant that they have set up. However the entire history and record of the Respondent's ETP is tainted with various non-compliances and violations against which the Respondent No.2 has time and again issued them show cause notices, closure directions etc. Moreover, the consent to operate granted by MPCB to the Respondent No.1 is conditional of the fact that the Respondent No.1 shall be subjected to SCADA monitoring as implemented by TEPS-CETP and there is a specific mandate that at no point of time any effluent discharge by Respondent No.1 shall find its way to any water body directly or indirectly.

3. As regards Respondent's contention in Para 2 that the cause of action for the filing of the present Original Application is purely commercial and based on the contract is vehemently denied. The cause of action is based on environmental violations and breaches committed by the Respondent No.1. So also non-payment of treatment charges is a violation of Consent to Operate and environmental obligations as cast upon the Respondent No.1 by law. Furthermore, part of the claim amount is contribution of the Respondent No.1 towards environmental compensation that has been paid and deposited by the Applicant on behalf of the Respondent No.1 in terms of the orders of this Hon'ble Tribunal as further modified and directed by the Hon'ble Supreme Court of India. Thus by no stretch of



imagination, the present application falls under category of commercial litigation. The Applicant has also brought out a specific case of environmental violations by the Respondent No.1 from time to time over last many years. The Applicant further states that the jurisdiction of this Hon'ble Tribunal is very wide and extends to all matters and over all civil cases concerning the environment and its management as well as enforcement of the environmental statutes which includes rules, regulations or the notifications issued by the governments.

4. As regards Para 4 & 5, it is denied that the functioning and monitoring of CETPs is to be restricted to small and medium scale industries alone. As earlier stated the Respondent No.1 is bound to operate its plant in terms of Consent to Operate issued by the State PCB and cannot on its own claim "Right to Discharge" which implies its alleged blanket claim to discharge effluent without any monitoring.
5. For the reasons stated above contents of Para 6 are denied. The alleged challenge to the actions of MIDC cannot be set up here. Even otherwise such contention is false and baseless. It is further stated that all member industries have voluntarily joined the CETP and are shareholders of the Applicant company. In fact Tarapur MIDC has historically been declared as critically polluted area in various PILs and petitions dealt with by the Hon'ble Bombay High Court and it was under the compelling circumstances that all industries within the Tarapur MIDC came together to form TEPS (Applicant) to set up a CETP. Moreover,



the alleged challenge now being made to the 25<sup>th</sup> February 2000 Circular issued by the MIDC is baseless, untenable and Moreso ever hopelessly time barred.

6. Contents of Para 7 of the Reply are denied. There are multiple show cause notices and closure directions issued by MPCB to the Respondent No.1. Furthermore, the Applicant has also submitted test results of samples collected from the discharge point at the Respondent's premise, which establish continued violations of the environmental norms.
7. Contents of Para 9 to 12 of the Reply are rhetoric and are denied for the reasons aforesaid. Moreover these contentions are raised as an afterthought and are hopelessly time barred, if at all Respondent No.1 intends to challenge certain acts/ claims by the government authorities.
8. As regards Para 13, Applicant states that it has been continuously upgrading its plants and has in fact set up a new 50 MLD treatment plant, which required huge investments. So also, the treatment charges are based on the expenses incurred by the Applicant CETP and any revisions therefore are first approved by the regulatory bodies. The Applicant has followed due process of law before revision in the treatment charges. The same has been duly informed to all member industries. All industries are paying the treatment charges at the revised rate. It is denied that any additional charges are levied or the treatment charges were levied for defaults of the other industries. The Applicant states that the Respondent No. 1 is liable to pay dues of Rs.



63,51,675/- and charges of Rs. 6,58,225/- towards de-sludging as separately payable.

9. As regards Para 14 & 15, the contents are repetitive and thus denied. The Respondent No. 1 who is admittedly pursuing a separate cases before this Hon'ble Tribunal which are subjudice and not finally decided, can not claim assume exemption from payment of treatment charges and calling actions of the Applicant or other Respondents as illegal. In fact the alleged filing of police complaint is nothing short of harassment of the Applicant's officials and causing the Applicant undue hardships.

10. As regards Para 16 & 17, the Applicant states that the orders of this Hon'ble Tribunal passed in OA 64 of 2016 and subsequent directions of the Hon'ble Supreme Court are already placed before this Hon'ble Tribunal and the same shall be relied and referred to at an opportune time. The Respondent's own interpretation of these proceedings and orders is denied by the Applicant.

11. For various facts and reasons stated above the contents of Para 18 to 30 are denied. The incidence dated 27<sup>th</sup> March 2023 as allegedly described is categorically denied. Contents that are related to the legal correspondence exchanged between the parties are part of the record and shall be referred at the opportune time. Applicant states that despite closure of SCADA valve, the Respondent No.1 is continuously operating its plant by illegally discharging into the CETP chamber bypassing the



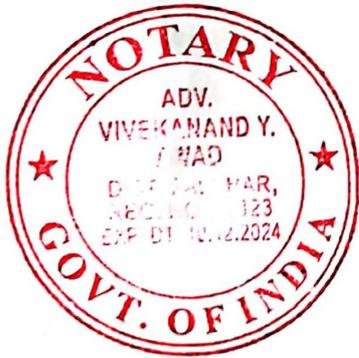
SCADA monitoring valve. This is a gross violation of the Consent to Operate for which urgent restraint orders are warranted to be issued against illegal industrial operations undertaken by the Respondent No.1.

WHATEVER STATED HEREINABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND IN WITNESS WHEREOF I HAVE SIGNED HEREUNDER ON THIS 29<sup>TH</sup> DAY OF APRIL 2024 AT TARAPUR-BOISAR, DIST-PALGHAR.



*[Handwritten Signature]*  
AFFIANT

Before Me,



**SIGNED BEFORE ME**

**VIVEKANAND Y. AWAD**  
Advocate & Notary  
Flat No. 102, Bldg. - E wing, Mahavir Kunj  
Katkar Pada, Boisar,  
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29 APR 2024

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