

BEFORE THE NATIONAL GREEN TRIBUNAL,
WEST ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 92 OF 2021

IN THE MATTER OF

Shreeji Mahila Charitable Trust APPLICANT

VERSUS

State of Gujarat & Ors. RESPONDENTS

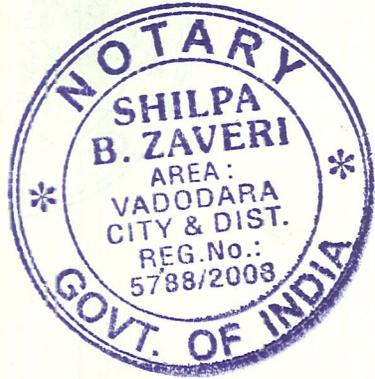
**REPLY AFFIDAVIT ON BEHALF OF CENTRAL POLLUTION
CONTROL BOARD, i.e. RESPONDENT NO. 10**

I, Prasoon Gargava, aged about 51 years and having office at the Regional Directorate, Vadodara, Near VMC Ward Office No. 10, Subhanpura, Vadodara, Gujarat – 390023, do hereby solemnly affirm and sincerely state as follows:

That I, in the capacity of Scientist F of the Central Pollution Control Board (hereinafter referred to as CPCB) am fully conversant with the facts of the case and hence, competent to swear this reply affidavit on behalf of the Respondent No. 10 that is CPCB.

PARAWISE REPLY

1. That averments made in Para 1 of the Application refers to the Articles of Constitutions under which appeal has been filed and declaration that appeal has been filed in public interest. Hence, need no comments from this answering Respondent No. 10.
2. That averments made in paras 2 and 3 of the Application refers to the details of the appellant, and cost for litigation is being borne by the appellant. Hence, need no comments from this answering Respondent.
3. That averments made in para 4(i) of the Application are that the industrial development in the State of Gujarat as well as by Gujarat Industrial Development Corporation (hereinafter referred to as GIDC) resulting into establishment of various industries having potential to cause air, water pollution and the



environmental regulation, with regard to the Rules framed for the disposal of industrial hazardous wastes. In this regard it is humbly submitted that Common Hazardous Waste Treatment, Storage and Disposal Facilities (hereinafter referred to as CHWTSDFs) are regulated as per the provisions notified under Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016 (hereinafter referred to as HOWM Rules, 2016) (superseding the previously notified regulations in the years 2008 and 1989 respectively).

It is further submitted that the said Rules, outlines provisions for environmentally sound management of the hazardous waste. Further, as per Rule 16 of the HOWM Rules 2016, the operator of CHWTSDF shall design and set up the facility as per technical guidelines issued by the Central Pollution Control Board from time to time and shall obtain approval from the State Pollution Control Board for design and layout in this regard. It is also further submitted that as per the Schedule VII (S.No.3) read with Rule 21 of the HOWM Rules 2016, the State Government has been entrusted with the duty of identification and notification of sites for CHWTSDF.

4. That averments made in para 4(ii) of the Application refers to the judgment dated 17.02.2014 by Hon'ble High Court of Gujarat in the matter of PIL No. 47/2012 related to control of pollution, selection of dumpsites and protection of public health at large. The same are matter of record, hence need no comments from this answering Respondent.

5. That averments made in para 4(iii) of the Application are related to the reference made by Hon'ble High Court of Gujarat in its orders dated 17.02.2014 in the matter of PIL No. 47/2012 to the Hazardous Waste (Management and Handling) Rules, 1989. Further, provisions under the said Rules related to CHWTSDFs and responsibility of the occupier of such facility has been referred. In this regard, it is humbly submitted that the Hazardous Waste (Management and Handling) Rules, 1989 were superseded by Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008 followed by HOWM Rules, 2016.

6. That averments made in para 4(iv to v) of the Application refers to the site selection criteria mentioned in the Gujarat Pollution Control Board (hereinafter referred as GPCB) guidelines for Hazardous Waste Management and the clause 2(e) of the CPCB guidelines on declaration of a zone of 500 meters around the landfill boundary as 'no-development buffer zone' for the notified habitation area. In this regard, it is humbly submitted that CPCB has published the Guidelines "Criteria for Hazardous Waste Landfills" 2001, and under point (e) of section 2 (i.e. Location Criteria) of the said guidelines, it is stipulated that:





“(e) Habitation: A landfill site shall be at least 500m from a notified habitation area.

A Zone of 500 m around a landfill boundary should be declared a no-development

buffer zone after the landfill location is finalized.”

It is further humbly submitted that the aforesaid section 2 (i.e. Location Criteria) of the said guidelines also stipulates that If it is absolutely essential to Site a landfill within the restricted zone, then appropriate design measures are to be taken and prior permission from the State pollution Control Board/Pollution Control Committee (hereinafter referred to as SPCB/PCC) should be obtained, as reproduced under para 8 of this reply.

7. That averments made in para 4(vi-vii) of the Application refers to submission of applicant that the existing CHWTSDF sites located at Ankleshwar, Surat, Vapi, Nandesarai and Bhavnagar are not governed by the Gujarat Town Planning and Urban Development Act, 1976 and Gujarat Comprehensive Development Control Regulations (GDCR) are not applicable and no zoning of the said sites have been carried out. In this regard, it is humbly submitted that as per the Schedule VII read with Rule 21 of the HOWM Rules 2016, the concerned department in the State Government is appropriate authority for identification and notification of sites for CHWTSDF.

8. That the averments made in para 4(viii-xvi) of the Application refers to details of the land use near the Treatment, Storage and Disposal Facilities (hereinafter referred as TSDFs) in Ankleshwar , Surat , Vapi , Nandesarai and Alang observed through satellite images (google images). Further it is alleged that the satellite images of the said CHWTSDF sites indicates presence of residential houses within the 500 meter of the TSDF sites, and presence of natural water flowing body near the CHWTSDF, Surat. Applicant has also submitted that no public meeting has been held with persons residing in the radius of 500 meters from TSDF sites which have been selected by the GPCB & other authorities on their own without undertaking any procedure for purpose of acquisition. It has also pointed out that large number of industries are present in the nearby areas, that is 500 meter of the CHWTSDF sites receiving industrial hazardous waste for disposal. Applicant has also made contention that storage/dumping of the waste in the said TSDF facilities will cause impact on ground water.

In this regard, it is humbly submitted that section 2.0 of the CPCB guidelines "Criteria for Hazardous Waste Landfills", issued in the year 2001, stipulates the location criteria for CHWTSDFs, which is re-produced as below;

"2.0 Location Criteria

HW Landfills shall not be located within a certain distance of the following: lakes. ponds. rivers. wetlands, flood plains, highways, habitation, critical habitat area. water supply wells. Airports, coastal zone. If it is absolutely essential to Site a landfill within the restricted zone, then appropriate design measures are to be taken and prior permission from the SPCB/PCC should be obtained:

(a)....

(b) River: No landfill shall be constructed within 100 meters of a navigable river/stream.

(c)...

(d)...

(e) Habitation: A landfill site shall be atleast 500m from a notified habitation area. A Zone of 500 m around a landfill boundary should be declared a no-development buffer zone after the landfill location is finalized..."

In this regard, it is humbly submitted that;

- (a) At point 2(e) of the guidelines, the no-development buffer zone refers to the habitation.
- (b) The CPCB guidelines "Criteria for Hazardous Waste Landfills", 2001 outlines the requirement of various essential components for hazardous waste landfills including liner system, leachate collection and treatment system, surface water drainage etc. Copy of the relevant portion of the guidelines is annexed as **Annexure R10-1**.
- (c) Rule 16 of the HOWM Rules, 2016 outlines duties and responsibility of the operator of Treatment, storage and disposal facility for hazardous and other wastes which includes environmentally sound operation of the facility alongwith its closure and post closure phase, as per guidelines or standard operating procedures issued by the Central Pollution Control Board from time to time.



(d) As the Common Hazardous Waste TSDFs have been operated as per the authorization issued by the prescribed authority, that is the GPCB, it is humbly submitted GPCB may monitor the compliance of aforementioned 5 common TSDFs located at Ankleshwar, Surat, Vapi, Nandesarai and Bhavnagar with respect to operation of the facility in accordance with HOWM Rules, 2016 and CPCB guidelines including the monitoring of the soil / groundwater quality in the recipient environment.

(e) It is also humbly submitted that as per Rule 21 & Schedule VII of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, State Government/Union Territory Government/Administration are the concerned agency for identification and notification of CHWTSDF Sites.

9.0 That averments made in para 4(xvii) of the Application refers to the issuance of Public notice for grant of Environmental Clearance to the Plot No. 9701-9716 and other plots as dumping sites which is in midst of the residential area. In this regard, it is humbly submitted that the requirement of Environmental Clearance has been stipulated in EIA Notification vide S.O 1553 dated 14/09/2006 notified under the Environment (Protection) Act, 1986 for CHWTSDFs. The concerned regulatory authority for grant of Environmental Clearance (EC) for setting up a common TSDF with secured Fill landfill along with incinerator or Incinerator alone is the Ministry of Environment, Forests & Climate Change, whereas for setting up common TSDF with secured land (SLF) alone, the concerned authority is the State Environment Impact Assessment Authority (SEIAA). Further, the GPCB is the prescribed authority under HOWM Rules, 2016 as amended under E(P) Act, 1986, to authorise the CHWTSDFs as per the guidelines issued by CPCB.

10. That averments made in para 5-7 of the Application refers to the action taken by the applicant before filing the present matter which includes inquiry for collection of information and submission of petition before the Hon'ble High Court of Gujarat as Misc. Application. The same are matter of record. Hence, need no comments from this answering Respondent.

11. That averments made in para 8 (a-c) of the Application refers to the grounds of the application which includes selection of site for dumping of waste without following rules/regulations/guidelines, without taking care of health hazard of peoples due to such sites and violation of right of property. In this regard, submission made by this answering Respondent at para 9 of this affidavit above may kindly be referred.





12. That averments made in para 9 of the Application refers to the interim relief of stay of dumping of waste in 05 TSDFs and stay of the new site at Ankleshwar. In this regard, it is humbly submitted that as per the provisions under HOWM Rules, 2016, GPCB is the concerned authority to grant authorization, monitoring the compliance of the Rules and guidelines issued by CPCB and for taking action against the violations, if any. Further, the prescribed authority for Environmental Clearance at State or Central level would be as per the provision under EIA Notification vide S.O 1553 dated 14/09/2006.

13. That averments made in para 10-11 of the Application refers to the submission that the applicant has not filed any other appeal or application before Hon'ble Supreme Court or any other courts and applicant didn't have any other alternate or efficacious remedy apart from filing the present matter. Hence, need no comments by this answering Respondent.

In view of the above, it is humbly submitted that this answering Respondent no.10 CPCB shall abide by any order passed by the Hon'ble Tribunal.

P. Gargava
DEPONENT

VERIFICATION

Verified at Vadodara on this 6th day of January, 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

P. Gargava
DEPONENT

प्रसून गार्गव / PRASOON GARGAVA
 क्षेत्रीय निदेशक / REGIONAL DIRECTOR
 केन्द्रीय प्रदूषण नियंत्रण बोर्ड / Central Pollution Control Board
 (पर्यावरण, वन एवं ज.प. मंत्रालय, भारत सरकार)
 (Ministry of Environment, Forest & Climate Change, Govt. of India)
 क्षेत्रीय निदेशालय (पश्चिम), वडोदरा-390023.
 Regional Directorate (West), Vadodara-390023.

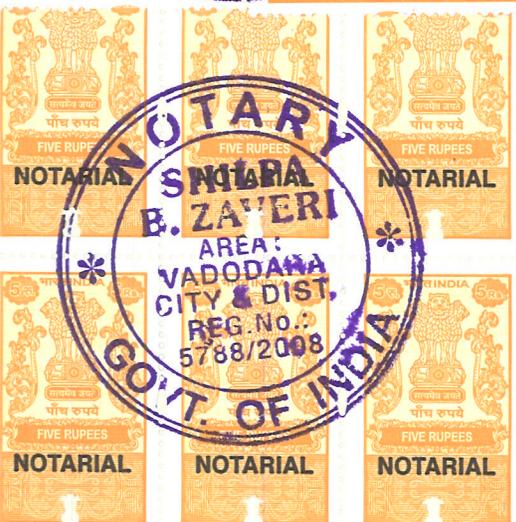
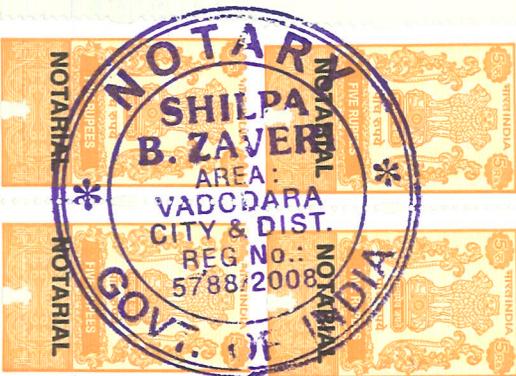
Solemnly Affirmed/Declared
 Sworn Before me by *Prasoon Gargava*

SHILPA. B. ZAVERI
 NOTARY

6 JAN 2024

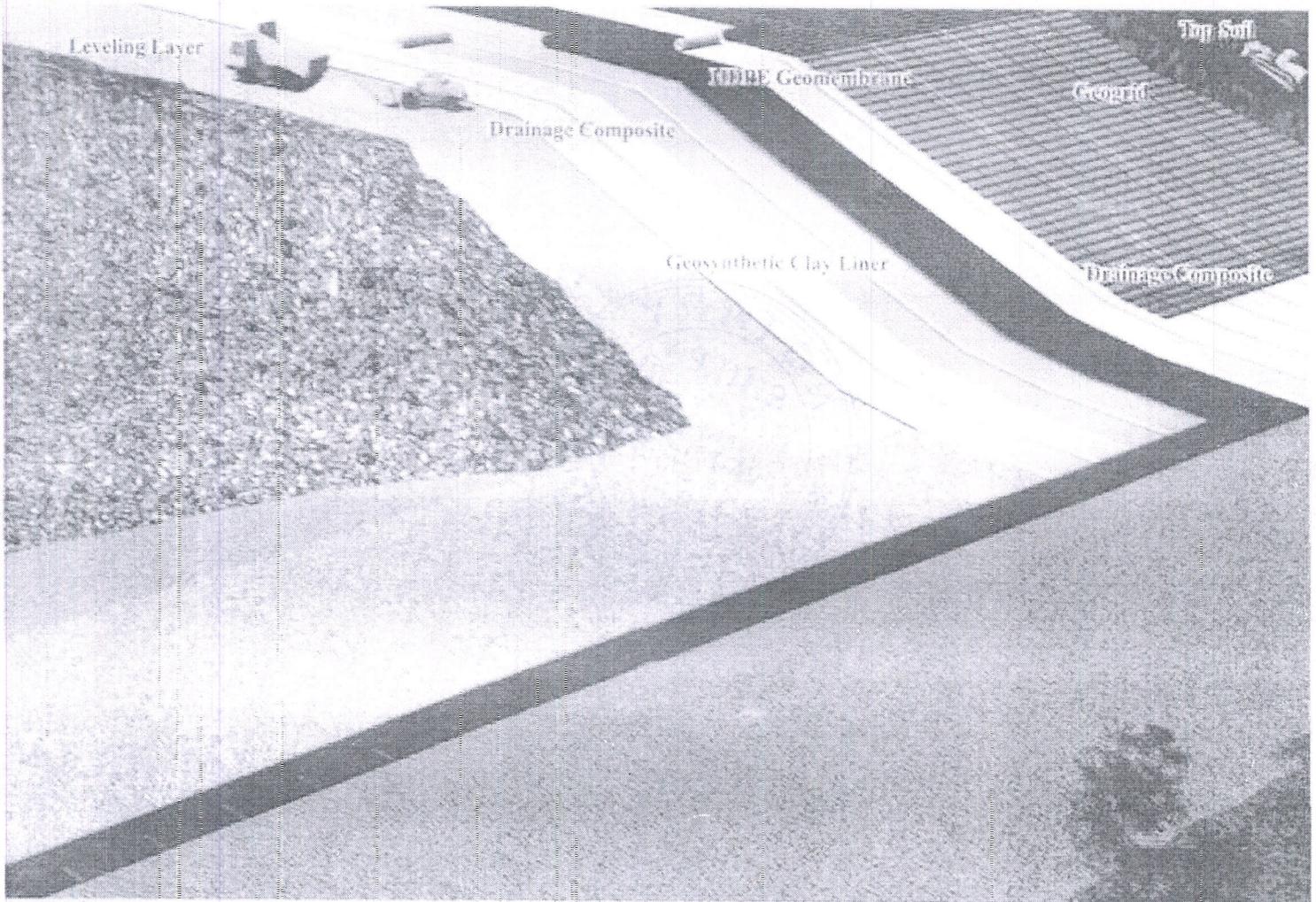


My Commission expires on 28-4-2028
 SHILPA B. ZAVERI
 NOTARY





CRITERIA FOR HAZARDOUS WASTE LANDFILLS



**CENTRAL POLLUTION CONTROL BOARD
MINISTRY OF ENVIRONMENT & FORESTS**

e-mail : cpcb@alpha.nic.in
Website : <http://envfor.nic.in/cpcb>
February, 2001



CRITERIA FOR HAZARDOUS WASTE LANDFILLS

1.0. APPLICABILITY

The criteria stated hereafter apply to owners and operators of facilities that dispose hazardous waste in landfills. The term 'hazardous waste landfill' (HW Landfill) is used to designate a waste disposal unit designed and constructed with the objective of minimum impact to the environment. This term encompasses other terms such as "secured landfill", "engineered landfill", "waste mounds", "waste piles" etc.

2.0. LOCATIONAL CRITERIA

HW Landfills shall not be located within a certain distance of the following : lakes, ponds, rivers, wetlands, flood plains, highways, habitation, critical habitat area, water supply wells, Airports, coastal zone. If it is absolutely essential to site a landfill within the restricted zone, then appropriate design measures are to be taken and prior permission from the SPCB/PCC should be obtained :

- (a) Lake or Pond : No landfill shall normally be constructed within 200 m of any lake or pond. Because of concerns regarding runoff of waste contaminated water, a surface water monitoring network with approval of SPCB/PCC shall be established.
- (b) River : No landfill shall be constructed within 100 m of a navigable river or stream.
- (c) Flood Plain : No landfill shall be constructed within a 100 year flood plain. A landfill may be built within the flood plains of secondary streams if an embankment is built along the stream side to avoid flooding of the area. However, landfills must not be built within the flood plains of major rivers unless properly designed protection embankments are constructed around the landfills.
- (d) Highway : No landfill shall be constructed within 500 m of the right of way of any state or national highway.
- (e) Habitation : A landfill site shall be atleast 500 m from a notified habitated area. A zone of 500 m around a landfill boundary should be declared a no-development buffer zone after the landfill location is finalised.
- (f) Public parks : No landfill shall be constructed within 500 m of a public park.



- (g) Critical Habitat Area : No landfill shall be constructed within critical habitat areas including reserved forest areas. A critical habitat area is defined as the area in which one or more endangered species live. It is sometimes difficult to identify a critical habitat area. If there is any doubt then the SPCB/PCC shall be consulted for clarification.
- (h) Wetlands : No landfill shall be constructed within wetlands. It is often difficult to identify a wetland area. Maps may be available for some wetlands, but in many cases such maps are absent or are incorrect. If there is any doubt, then the SPCB/PCC shall be consulted for clarification.
- (i) Airports : No landfill shall be constructed within a zone around Airports as notified by the regulatory authority or the aviation authority.
- (j) Water Supply Well : No landfill shall be constructed within 500 m of any water supply well.
- (k) Coastal Regulation Zone : No landfill shall be sited in a coastal regulation zone.
- (l) Ground water table level : No landfill shall be located in areas where the ground water table will be less than 2 m below the base of the landfill.
- (m) Other criteria may be decided by the planners in consultation with SPCB/PCC commensurate with specific local requirements such as presence of monuments, religious structures etc.

3.0. SITE SELECTION

Hazardous waste landfills should preferably be located in areas of low population density, low alternative land use value, low ground water contamination potential and at sites having high clay content in the subsoil.

A HW landfill will be selected following the guidelines published by MoEF. The step by step procedure will be as follows:

- (i) Earmarking a 'search area' taking into account the location of the waste generation units and a 'search radius' (typically 5 to 250 km). The search area will be so chosen that it minimises the number of HW landfills in any region or state.
- (ii) Identification of a list of potential sites on the basis of
 - (a) availability of land
 - (b) collection of preliminary data
 - (c) restrictions listed in the locational criteria (section 2.0)