

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

APPEAL NO. 40 OF 2022 (WZ)

IN THE MATTER OF: -

TALOJA MANUFACTURERS  
ASSOCIATION

APPELLANT

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS



**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2,**  
**CENTRAL POLLUTION CONTROL BOARD (CPCB)**

I, Bharat Kumar Sharma, S/o Shri. D.P Vishwakarma, aged 49 years, working as Scientist 'F' and Regional Director in the Regional Directorate, Central Pollution Control Board, Pune, do hereby solemnly affirm and declare as under:

That I, in the capacity of Scientist 'F' of the Central Pollution Control Board (hereinafter referred 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. 2.

1. That the averments made in Paras 1 to 3 are about particulars of the Petitioner and Respondents in the matter, and also the reason for filing the present Application, which calls for no comments from this Answering Respondent No. 2.
2. That the averments made in the Paras 1 to 6 are about particulars of the Petitioner and Respondents, which is matter of court record and therefore no comment from this Answering Respondent No. 2.
3. That averments made in Para 7 are regarding challenge of the petitioner to the validity of Environmental Clearance (EC) for project within the 500 mtrs. of No Development buffer zone obtained by the Respondent No. 5 (i.e M/s Arihant Superstructures Limited) after

concealing the fact of existence of the Common Hazardous Waste Treatment Storage and Disposal Facility, (hereinafter referred as "CHWTSDF") near the project in question which is in violation of CPCB Guidelines. In this regard, this Answering Respondent submits that the State Environmental Impact Assessment Authority (hereafter referred as "SEIAA") i.e. Respondent No. 4 is the prescribed Authority for grant of Environmental Clearance as per the notification no. S.O 1553 dated 14/09/2006 notified under the Environment (Protection) Act, 1986 for all projects or activities included as Category 'B' which included the project in question i.e. Building & Construction. Hence, the averments made in Para 7 on Environmental Clearance pertains to Respondent No. 4.

Further, with regard to the no development buffer zone around TSDF and violation of CPCB guidelines, it is submitted that CPCB has published Guidelines "Criteria for Hazardous Waste Landfills" 2001, under Section 2 i.e. Locational Criteria, it is stipulated that:

*"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) ...*

*(b) ...*

*(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.*

*(f)...*

*..."*

It is also submitted that the provision for no development buffer zone of 500 meters has been specified in the Criteria for Hazardous Waste Landfills, 2001 to safeguard human health in case of any adverse impacts from the landfills. Copy of Relevant portion of the said guidelines is annexed and marked as "**Annexure R2-I**".





It is also further submitted that as per the Schedule VII read with Rule 21 of the HOWM Rules 2016, the State Government has been entrusted with the duty of Identification and notification of site for CHWTSDF.

4. That averments made in Para 8-10 are about Talaja Industrial Area and Talaja Manufacturers Association (hereinafter referred as "TMA") which calls for no comments from this Answering Respondent.
5. That averments made in Para 11 are about the management of hazardous waste in CHWTSDF, contention of the Appellant regarding issues on daily operation of industries due to proposed residential township and resolution taken by managing committee of TMA for filing of appeal before the Hon'ble NGT. This averments are matter of court record and hence no comments from this Answering Respondent.
6. That averments made in Para 12-14 are about legal procedure followed for identification and notification of site for CHWTSDF by MIDC, approval for establishment & operation of CHWTSDF by Respondent No. 3 i.e. Maharashtra State Pollution Control Board. Hence, the content of the Para relates to Respondent No. 3 and calls for no comments from this Answering Respondent.
7. That averments made in Para 15 are about CPCB guidelines "Criteria of Hazardous Waste Landfills, 2001" for declaring 500 mtr. from TSDF facility as no development buffer zone. In reply to the said averments, this Answering Respondent wants to reiterate the reply made in Para 3 above.
8. That averments made in Paras 16 to 17 are regarding construction activity for residential township has been started at about 50 meters (as per google earth image) from the operational CHWTSDF and the same violates the guidelines issued by CPCB.

In this regard, it is submitted that as per section 2(e) of CPCB Guidelines "Criteria for Hazardous Waste Landfills" 2001 "*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.*"

The said section 2 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 SPCB/PCC should be obtained. Further, State Government has been entrusted with the duty of identification and notification of sites for CHWTSDF as per the aforesaid provisions under HOWM Rules 2016.

9. That averments made in Para 18-25 is related to inquiry by members of TMA on grant of EC concealment of information and making false declaration related to existence and operation of the CHWTSDF around the proposed project in the Form-1 by Respondent No. 4 to Respondent No. 5 and recorded of the discussions on which EC has been granted by Respondent No. 4 without verification of the submissions made by Respondent no. 5.

In this regard, this Answering Respondent submits that SEIAA i.e. Respondent No. 4 is the prescribed Authority for grant of Environmental Clearance as per the notification no. S.O 1553 dated 14/09/2006 notified under the Environment (Protection) Act, 1986 for all projects or activities included as Category 'B' which included the project in question i.e. Building & Construction. Hence, the content of para on Environmental Clearance is related to Respondent No. 4 and calls for no comments from this Answering Respondent.

10. That averments made in Para 26 is related to submission of detailed representation by TMA before Respondent no. 4 with request to withdraw/keep in abeyance the impugned EC. In this regard, this Answering Respondent submits that Answering Respondent also received a representation from TMA regarding the residential cum commercial construction in the "No development Buffer Zone", the same was forwarded to Maharashtra Pollution Control Board and Panvel Municipal Corporation for taking necessary action as per CPCB guidelines. The copy of the said letter issued by CPCB is annexed and marked as "Annexure R2-II".

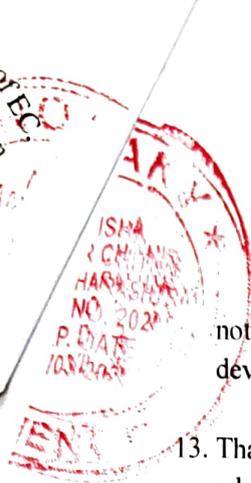
11. That averments made in Para 27 is about the provision for 500 meter no development buffer zone as per CPCB guidelines "Criteria for Hazardous Waste Landfills" 2001. In this regard, this Answering Respondent wants to reiterate the comments made at para 3 above.

12. The averments made in Para 28 is related to Amended Guidelines on Provision of Buffer Zone around Waste Processing and Disposal Facilities-2019 and Protocol for Assessing Proposal for Development of Projects in Buffer zone of CHWTSDF, 2021 issued by CPCB.

In this regard, this Answering Respondent submits that the Amended Guidelines on provision for buffer zone referred is related to waste processing and disposal facilities for Municipal Solid Waste (MSW), the same is not applicable on facilities handling and managing the Hazardous Waste. For buffer zone of CHWTSDF, the CPCB guidelines "Criteria for Hazardous Waste Landfills, 2001" is applicable.

Further, with regard to Protocol for Assessing Proposal for Development of Projects in Buffer zone of CHWTSDF, 2021, it is submitted that, the said protocol is only applicable in case of development of projects in the no development buffer zone of **Closed** CHWTSDF, and the CHWTSDF, MIDC Taloja (referred in the matter) is in operation. The said guidelines have been communicated to all the SPCB/PCCs with request to bring into the





notice of concerned agencies/authorities and adherence while granting permission to development projects in buffer zone of Closed TSDFs.

13. That the averments made in Para 29 (A) to (C) are ground of application made by Appellant wherein it has been mentioned that the EC granted by Respondent No. 4 has been obtained by the Respondent No. 5 on basis of false/misleading facts submitted. Hence, the content of para on Environmental Clearance is related to Respondent No. 4 and calls for no comments from this Answering Respondent.
14. That the averments made in para 29 (D) is ground of application made by appellant wherein provision for “No development buffer zone” as per clause 2 (e) of the CPCB Guidelines “Criteria for Hazardous Waste Landfills 2001” has been referred. Further, amended guidelines of 2020 have been mentioned. In this regard, the comments of this Answering Respondent, as at Para 3 above, may kindly be referred. It is also submitted that, CPCB has not amended any guidelines related to “no development buffer zone” for CHWTSDF in 2020.
15. The averments made in para 29 (E) is ground of Application made by Appellant wherein the Protocol for Assessing Proposal for Development of Projects in Buffer zone of CHWTSDF, 2021 issued by CPCB, definition of Operational TSDF and clauses regarding residential activity have been mentioned. In this regard, this Answering Respondent submits that the said protocol is for development of projects in the Buffer zone of Closed TSDFs. Further, as per the said protocol, clause 7.0(m) SPCB/PCC shall restrict sensitive projects/ activities having maximum period of human exposure and may consider the other projects with minimum human exposure and accordingly Residential Activities have been categorized as “Sensitive Projects”. Also clause 7.0(n) of the said protocol states that “*As far as possible, no residential activities shall be allowed within the buffer zone. However, the residential activity may be permitted in the low risk buffer zone.*”
16. That the averments made in Para 29 (F) is ground of application made by Appellant wherein it has been stated that the impugned EC in question shall be set aside as the same has been granted by Respondent No. 4 on the false submission made by the Respondent No. 5. Therefore, this Answering Respondent has no comments to offer in this regard.
17. That the averments made in Para 29 (G) is ground of application made by Appellant wherein information about Taloja Industrial Area and units operating, concept of buffer zone to avoid environmental hazard on human health, etc., needs no comments from this Answering Respondent.



18. That the averments made in para 29 (H) under grounds, Appellant cited the Judgment dated 17.02.20214 passed by Hon'ble High Court of Gujarat, Ahmedabad, in the matter of Mahila Utkarsh Mandal v/s Sharda Developers & Ors. wherein Hon'ble High Court observed about the distance criteria of 500 meters from landfill shall be complied with in its letter and spirit unless such restriction imposed is found to be ultra vires any statutory provision and set aside the EC granted. These averments are matter of court records, and hence no comments from this Answering Respondent.

19. That the averments made in Para 29 (I) under heading Grounds, wherein Appellant cited the Judgment passed by Hon'ble Supreme Court, in the matter of Hanuman Laxman Aroskar Vs. Union of India & Ors. These averments are matter of court records, and hence no comments from this Answering Respondent.

20. The averments made in Para 29 (J) under the heading Grounds, wherein it has been mentioned that TSDF site was selected after satisfying all the requirements of "Criteria for Hazardous Waste Landfills, 2001" including distance of 500 meters from any habitation. Further, any habitation after notification of TSDF site in the no development buffer zone violates the aforesaid criteria. In this regard, it is humbly submitted that, as per the Rule 16(2) of the HOWM Rules 2016, the operator of common facility or occupier of a captive facility, shall design and set up the treatment, storage and disposal 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.

In view of the aforesaid provisions under Rule 16(2) of the HOWM Rules, 2016 read with the aforesaid Para 2 of CPCB's guidelines - "Criteria for Hazardous Waste Landfills, 2001", the content of the Para 28(j) relates to Respondent No. 03 (i.e. Maharashtra Pollution Control Board) is the concerned State Pollution Control Board who is to grant approval for design and layout of CHWTSDF and applicable Zone of 500 m or more or less provided/required thereto around the CHWTSDF as 'no-development buffer zone' as per design measures in the design and layout approved by them.

21. That the averments made in Para 29 (K) under heading Grounds, wherein reference has been made to past environmental outbreak such as Bhopal gas Tragedy, Ammonia leakage etc. The said averments invite no comments from this Answering Respondent.



That in light of the above submissions, it is humbly submitted that this Answering Respondent No. 2 i.e. CPCB shall be abide by any order passed by this Hon'ble Tribunal.

DEPONENT

### VERIFICATION

Verified at Pune on this ..... day of January 2023 that the averments in the above affidavit are true and correct to the best of my knowledge and nothing has been concealed therein.

भरत कुमार शर्मा/Bharat Kumar Sharma  
 क्षेत्रीय निदेशक / Regional Director  
 केंद्रीय प्रदूषण नियंत्रण बोर्ड  
 Central Pollution Control Board  
 क्षेत्रीय निदेशालय, पुणे/Regional Directorate, Pune  
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार  
 M/o Env't. Forest & Climate Change, Govt. of India  
 रो हाउस नंबर-1, संजीवनी निसर्ग, बालेवाड़ी, पुणे-411045  
 House No.-1, Sanjivani Nisarg, Balewadi, Pune-411045

DEPONENT – Respondent No. 2

Counsel for Respondent No. 2



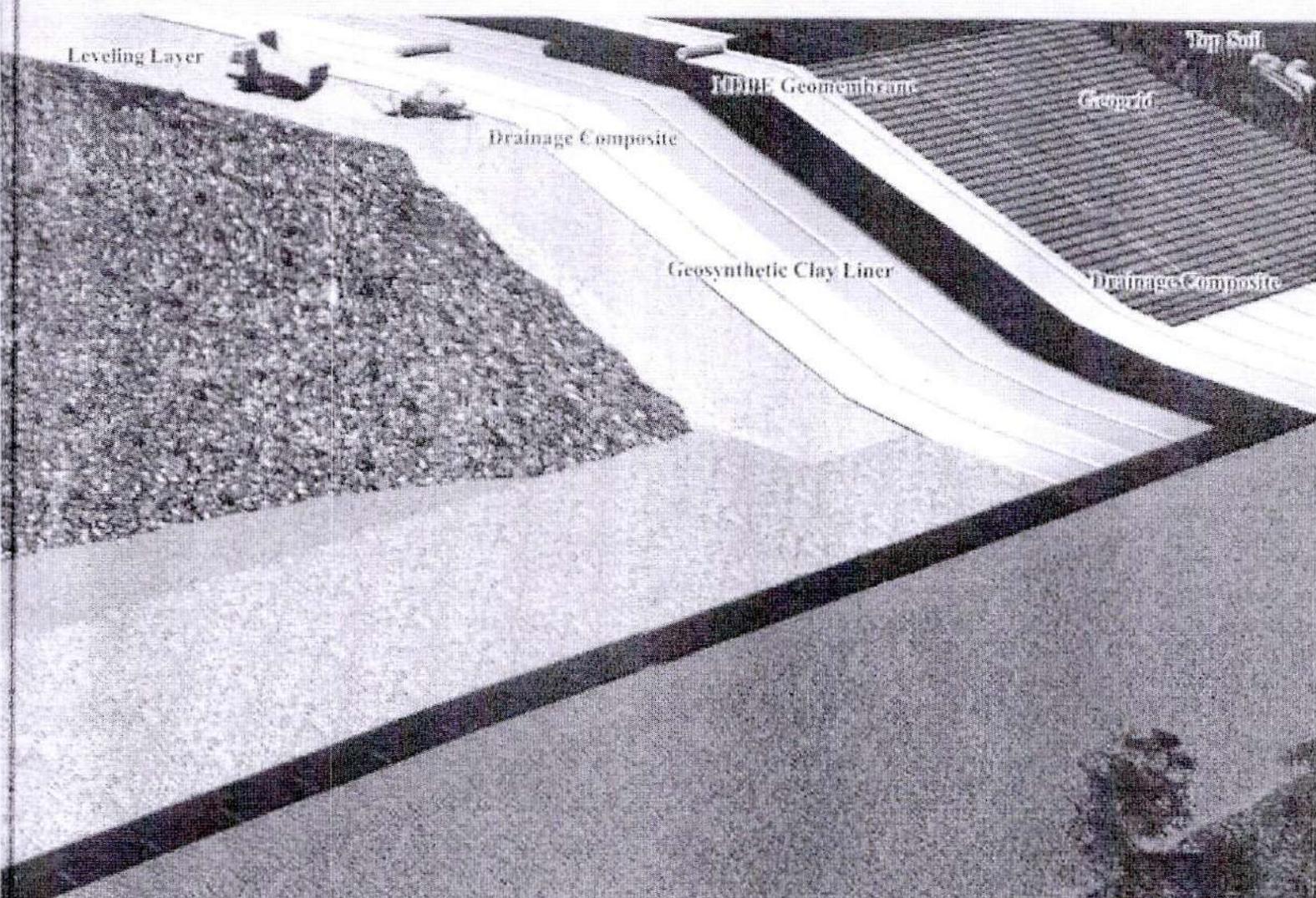
**ATTESTED**

**MANISHA SAMEER CHITNIS  
 NOTARY  
 GOVERNMENT OF INDIA**

16 JAN 2023

Hazardous Waste Management  
Series : HAZWAMS/17/2000-01

# CRITERIA FOR HAZARDOUS WASTE LANDFILLS



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

e-mail : [cpcb@alpha.nic.in](mailto:cpcb@alpha.nic.in)

Website : <http://envfor.nic.in/cpcb>

February, 2001 TRUE COPY

## 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)

SPEED POST

File No.CP-21/12/2022-WM-II-HO-CPCB-HO

September 22, 2022

To

1. **The Member Secretary**  
Maharashtra Pollution Control Board,  
Kalpataru Point, 3rd and 4th floor,  
Opp. PVR Cinema, Sion Circle,  
Mumbai-400 022.
2. **The Commissioner**  
Panvel Municipal Corporation  
Swami Nityanand Rd, Tal, opp. Gokhale Marriage Hall,  
Panvel, Navi Mumbai, Maharashtra 410206

**Sub: Complaint on Residential cum Commercial Construction in "No Development Buffer Zone" in the industrial Area of Taloja, MIDC –reg.**

**Ref:** Taloja Manufacturers' Association letter no. TMA/SJS/22-23/67 dated 23/08/2022.

Sir,

This has reference to above referred complaint from Taloja Manufacturers' Association regarding development/construction activity in the "No Development Buffer Zone" around the Common HW TSDF, Taloja. Copy of the letter is attached for ready reference.

In this regard it is to inform that CPCB has developed guidelines for restriction of activities around the common hazardous waste treatment Storage and Disposal facilities so as to minimize future health and environmental risks. A copy of the guidelines enclosed for ready reference.

In view of the above, it is requested to take appropriate action in the matter in line with CPCB guidelines. Action Taken Report may be sent to Taloja Manufacturers' Association with a copy to this office.

Yours faithfully,

  
(B. Vinod Babu)

Division Head

Waste Management-II

**Encl:** As Above**Copy to:**

1. Taloja Manufacturers' Association, P-21,  
MIDC, Taloja, Tal. Panvel Dist. Raigad  
Maharashtra-410208

o/c

  
(B. Vinod Babu)