

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

Execution Application No. 07/2022 (WZ)

In

Original Application No. 190/2016 (WZ)



Maj. Gen. Jatar (Retd.)

---Applicant

Vs.

The Municipal Corporation of City Pune & Ors.

---Respondents

**Reply affidavit on behalf of Maharashtra Pollution Control
Board i.e. Respondent No. 02**

I, Pratap Jagtap, age - 51 years, Occupation – Service, the Sub – Regional Officer of Maharashtra Pollution Control Board at Pune - 1 i.e. the Respondent No. 2, having my office at 2nd floor, Jog Centre, Wakdewadi, Pune, do hereby state on solemn affirmation as under-

I am filing this Reply - affidavit on behalf of Respondent No. 2 i.e. Maharashtra Pollution Control Board as under:-

- 1) I say and submit that the applicant had filed the Original Application No. 190/2016 (WZ) against violation of the Solid Waste Management Rules, 2016 in operation of composting facilities by Respondent No. 01 i.e. Pune Municipal Corporation (PMC). I submit that the said Original Application was disposed of by the Hon'ble NGT on 03/02/2022 and passed an Order directing Maharashtra

Pollution Control Board to take appropriate action for violation of the Rules.

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- 2) I say and submit that the Applicant has filed this Execution Application bearing No.7/2022 for the Compliance of Order dated 03/02/2022 passed by this Hon'ble Tribunal in O.A. No. 190/2016.
- 3) I say and submit that MPC Board on 24/8/2022 directed the Respondent No.1-PMC to submit the details about the period for which the said composting plants were in operation; the capacity of the said composting plants etc.
- 4) I say and submit that on the basis of information received from the Respondent No.1-PMC on 28/12/2022, the MPC Board has assessed Environment Compensation against Pune Municipal Corporation as follows –

The formula used for assessing Environment Compensation –



EC (in lacs) = 2.4 (Waste Generation – Waste Disposed as per Rules) + 0.02 (Waste Generation – Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation – Waste Disposed as per the Rules) x N

A) Plant located at sr. no. 1- Burning ghat, Koregaon park, Pune

1. Plant capacity:- 3.0 MTD
2. Operating period:- 04.05.2016 to 31.05.2018 – 758 days
3. Total solid waste treated :- 60.75 MT
4. Solid waste treated per day:- 0.08 MTD
5. Waste Disposed as per the Rules:- 0

6. N= Number of days from the date of operation started to date of shut down of said plant =758 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation -Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

$$\begin{aligned} \text{EC (Lacs)} &= 2.4 (0.08 -0) + 0.02 (0.08 -0) \times 758 + \\ & \quad 0.25 \times (0.08 -0) \times 758 \\ &= 0.192 + 1.2128 + 15.16 \\ &= 16.5648 \text{ Lacs} \end{aligned}$$

B) Plant located at sr. no. 2- Opp. To Bollywood Theater, Old Mundhawa road, Wadgaon Sheri Pune

1. Plant capacity:- 3.0 MTD
2. Operating period:- 21.07.2016 to 30.05.2018 – 680 days
3. Total solid waste treated :- 39.42 MT
4. Solid waste treated per day:- 0.058 MTD
5. Waste Disposed as per the Rules:- 0
6. N= Number of days from the date of operation started to date of shut down of said plant =680 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02(Waste Generation -Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

$$\begin{aligned} \text{EC (Lacs)} &= 2.4 (0.058 -0) + 0.02 (0.058 -0) \times 680 + \\ & \quad 0.25 \times (0.058 -0) \times 680 \\ &= 0.1392 + 0.7888 + 9.86 \end{aligned}$$



= 10.788 Lacs

C) Plant located at sr. no. 3 - Behind Raghunandan Hall, Old Gavthan, Wadgaon Budruk, Pune

1. Plant capacity:- 5.0 MTD
2. Operating period:- 27.07.2017 to 30.05.2018 – 309 days
3. Total solid waste treated :- 35.29 MT
4. Solid waste treated per day:- 0.1142 MTD
5. Waste Disposed as per the Rules:- 0
6. N= Number of days from the date of operation started to date of shut down of said plant = 309 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) + 0.02 (Waste Generation -Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

$$EC (Lacs) = 2.4 (0.1142 -0) + 0.02 (0.1142 -0) x 309 + 0.25 x (0.1142 -0) x 309$$

$$= 0.2741 + 0.7057 + 8.8219$$

$$= 9.8017 \text{ Lacs}$$

(D) Plant located at sr. no. 4- Tarachand Hospital, Bhavani Peth, Pune

1. Plant capacity:- 5.0 MTD
2. Operating period:- 16.07.2016 to 30.05.2018 –685 days
3. Total solid waste treated :- 46.81 MT
4. Solid waste treated per day:- 0.0683 MTD
5. Waste Disposed as per the Rules:- 0
6. N= Number of days from the date of operation started to date of shut down of said plant = 685 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)



EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation -Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

$$\begin{aligned} \text{EC (Lacs)} &= 2.4 (0.0683 -0) + 0.02 (0.0683 -0) \times 685 + 0.25 \\ &\quad \times (0.0683 -0) \times 685 \\ &= 0.1639 + 0.9357 + 11.6964 \\ &= 12.7959 \text{ Lacs} \end{aligned}$$

E) Plant located at sr. no. 7- Behind sarasbag ,peshave park, Parwati, Pune

1. Plant capacity:- 5.0 MTD
2. Operating period:- 10.01.2017 to 30.05.2018 –507 days
3. Total solid waste treated :- 96.50 MT
4. Solid waste treated per day:- 0.1903 MTD
5. Waste Disposed as per the Rules:- 0
6. N= Number of days from the date of operation started to date of shut down of said plant = 507 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation -Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

$$\begin{aligned} \text{EC (Lacs)} &= 2.4 (0.1903 -0) + 0.02 (0.1903 -0) \times 507 + \\ &\quad 0.25 \times (0.1903 -0) \times 507 \\ &= 0.4567 + 1.9296 + 24.1205 \\ &= 26.5068 \text{ Lacs} \end{aligned}$$

F) Plant located at sr. no. 8- Behind Sarasbag , peshave park, Parwati, pune

1. Plant capacity:- 5.0 MTD
2. Operating period:- 10.01.2017 to 30.05.2018 –507 days



3. Total solid waste treated :- 96.50 MT
4. Solid waste treated per day:- 0.1903 MTD
5. Waste Disposed as per the Rules:- 0
6. N= Number of days from the date of operation started to date of shut down of said plant = 507 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation -Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

$$\begin{aligned}
 \text{EC (Lacs)} &= 2.4 (0.1903 -0) + 0.02 (0.1903 -0) \times 507 + \\
 &\quad 0.25 \times (0.1903 -0) \times 507 \\
 &= 0.4567 + 1.9296 + 24.1205 \\
 &= 26.5068 \text{ Lacs}
 \end{aligned}$$

G) Plant located at sr. no. 9- Pashan Fire station Lamantanda vasti, Pashan, Pune

1. Plant capacity:- 5.0 MTD
2. Operating period:- 17.12.2016 to 30.05.2018 –531 days
3. Total solid waste treated :- 190.94 MT
4. Solid waste treated per day:- 0.3596 MTD
5. Waste Disposed as per the Rules:- 0
6. N= Number of days from the date of operation started to date of shut down of said plant = 531 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation -Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N



$$\begin{aligned} \text{EC (Lacs)} &= 2.4 (0.3596 - 0) + 0.02 (0.3596 - 0) \times 531 + \\ &\quad 0.25 \times (0.3596 - 0) \times 531 \\ &= 0.8630 + 3.8189 + 47.7369 \\ &= 52.4188 \text{ Lacs} \end{aligned}$$

**H) Plant located at sr. no. 10 - Opp. Mayor Bunglow J Plot,
Ghole Road ramp, Shivajinagar, Pune**

1. Plant capacity:- 5.0 MTD
2. Operating period:- 01.04.2017 to 30.05.2018 – 426 days
3. Total solid waste treated :- 59.81 MT
4. Solid waste treated per day:- 0.1404 MTD
5. Waste Disposed as per the Rules:- 0
6. N= Number of days from the date of operation started to date of shut down of said plant = 426 days
7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

$$\begin{aligned} \text{EC (Lacs)} &= 2.4(\text{Waste Generation} - \text{Waste Disposed as per} \\ &\quad \text{the Rules}) + 0.02 (\text{Waste Generation} - \text{Waste Disposed as per} \\ &\quad \text{the Rules}) \times N + \text{Marginal Cost of} \\ &\quad \text{Environmental Externality} \times (\text{Waste Generation} - \text{Waste} \\ &\quad \text{Disposed as per the Rules}) \times N \end{aligned}$$

$$\begin{aligned} \text{EC (Lacs)} &= 2.4 (0.1404 - 0) + 0.02 (0.1404 - 0) \times 426 + 0.25 \\ &\quad \times (0.1404 - 0) \times 426 \\ &= 0.3369 + 1.1962 + 14.9526 \\ &= 16.4857 \text{ Lacs} \end{aligned}$$

**I) Plant located at sr. no. 11 - Burning ghat, Koregaon
park, Pune**

1. Plant capacity:- 0.125 MTD
2. Operating period:- 15.12.2014 to 30.05.2018 – 1264 days
3. Total solid waste treated :- 38.84 MT
4. Solid waste treated per day:- 0.0307 MTD
5. Waste Disposed as per the Rules:- 0



6. N= Number of days from the date of operation started to date of shut down of said plant = 1264 days

7. Marginal Cost of Environmental Externality= 0.25 (for million plus city)

EC (Lacs) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation -Waste Disposed as per the Rules)xN+Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N

EC (Lacs) = 2.4 (0.0307 -0) + 0.02 (0.0307 -0) x 1264 + 0.25 x (0.0307 -0) x 1264

= 0.07368 + 0.7761 + 9.7012

= 10.5509 Lacs

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Grand total of above EC (lacs) = A + B + C + D + E + F + G + H + I

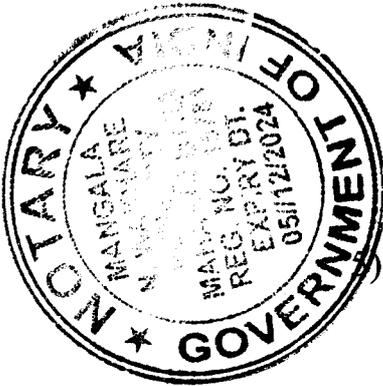
= 16.5648 + 10.788 + 9.8017 + 12.7959 + 26.5068 +

26.5068 + 52.4188 + 16.4857 + 10.5509

= 182.419 Lacs

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I say and submit that as per the records & information submitted by Pune Municipal Corporation, MPC Board has assessed the Environment Compensation of Rs. 1,82,41,900/- (One Crore Eighty-Two Lakhs Forty-One Thousand Nine Hundred only) against the violation caused by Respondent No. 1-PMC and issued direction to PMC to deposit amount of Environment Compensation on 9/1/2023. A copy of the



Environment Compensation direction dated 9/1/2023 is attached and annexed herewith as an **Annexure – I**.

6) I say and submit that MPC Board will initiate prosecution against Respondent No. 1-PMC and Respondent No. 5-Operator of the Facility by following due procedure.

Solemnly affirmed on this ^{9th} day of January, 2023 at Pune.

I know the affiant.

For and on behalf of Maharashtra Pollution Control Board i.e. Respondent No. 02

ADVOCATE

(Signature)
09/01/2023.

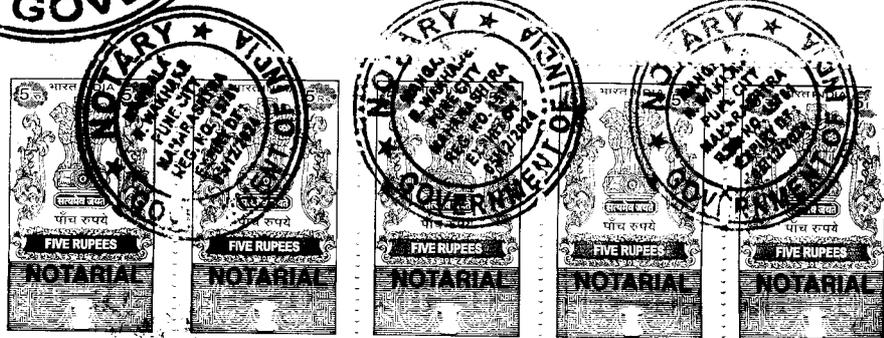
(Pratap Jagtap)

Sub – Regional Officer,
MPCB Pune -1



BEFORE ME
(Signature)
MANGALAN WAKHARE
ADVOCATE & NOTARY
GOVERNMENT OF INDIA

09 JAN 2023



**MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE - PUNE**

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"Your Service is our Duty"

Jog Centre, 3rd Floor,
Wakdewadi,
Old-Pune Mumbai Road,
Pune- 411003

MPCB/ROP/ 230109-FTS-0141

Date: 09/01/2023

To
The Deputy Commissioner,
Pune Municipal Corporation (PMC),
Opposite Mangala Theater,
Shivaji nagar, Pune – 411005

Sub. :- Assessment of Environment Compensation for non-compliance of the Solid Waste Management Rules, 2016

Ref. :- 1) Order passed by Hon'ble NGT on 3/2/2022 in Original Application No. 190/2016 (WZ) Maj. Gen. Jatar vs. PMC & Ors.
2) Order passed by Hon'ble NGT on 26/7/2022 in Execution Application no. 7/2022 in O.A. No. 190/2016 filed by Maj. Gen. Jatar vs. PMC & Ors.
3) Prosecution Notice issued to PMC dated 18/11/2022
4) Reply submitted by PMC dated 13/12/2022 & 28/12/2022
5) Office Note submitted by MPCB SRO Pune 1 vide MPCB-ON-2617 dated 3/1/2023 and approval received from the competent authority on 9/1/2023



WHEREAS Applicant Maj. Gen. S.C.N. Jatar has filed an Original Application No. 190/2016 (WZ) before Hon'ble National Green Tribunal, Western Zone Bench, Pune against violation of the Solid Waste Management Rules, 2016 by you i.e. PMC in operation of 24-hours composting plants operated by M/s Ecoman Enviro Solutions Pvt. Ltd..

AND WHEREAS the MPC Board official in compliance of NGT Orders dated 27/1/20217 carried out the visit at thermal composting plants and collected compost samples on 7/2/2017 & on 3/3/2017 and on 23/5/2018 and as per analysis results it was noted that the compost quality was not meeting the standards prescribed in Schedule – II of the Solid Waste Management Rules, 2016.

AND WHEREAS Hon'ble NGT vide Order dated 3/2/2022 directed MPC Board to take appropriate action for violation of the Rules by way of initiating prosecution and recovery of compensation on 'Polluter Pays' principle.

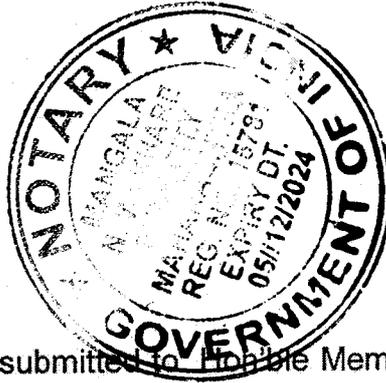
AND WHEREAS MPC Board has issued Prosecution Notice to you on 18/11/2022 and after referring you reply to the said notice dated 13/12/2022 &

:2:

28/12/2022 and as per all records and reports of the MPC Board Officials in this matter it is noted that you have failed to comply the Solid Waste Management Rules, 2016.

NOW THEREFORE, you are hereby informed to deposit the amount of **Rs. 1,82,41,900/- (Rs. One Crore Eighty-Two Lakhs Forty One Thousand Nine Hundred only)** towards the assessment of damage already caused to the environment and recovery of environmental compensation as per 'Polluters Pay' Principle to the Maharashtra Pollution Control Board, Kalpataru Point, 3rd Floor, Sion (East), Mumbai-400 022, within a period of 7 days from date of receipt of these directions, failing which, the Board will have no option than to initiate appropriate legal action against you, which please note.

This is issued with the approval of the competent authority.



For and on behalf of the
Maharashtra Pollution Control Board

(Shankar L. Waghmare)
Regional Officer, MPCB-Pune

Copy submitted to Hon'ble Member Secretary, MPCB, Mumbai- for favour of information.

Copy f.w.c. to: Joint Director (APC)/Law Officer (P& L Div), M. P. C. Board, Sion, Mumbai – for information.

Copy for information and necessary follow up: Sub-Regional Officer, Pune-I .