

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 32 OF 2023

IN THE MATTER OF:-

RAJU ALIAS DEVAVAPPA ANNA SHETTY & Ors. ..APPLICANT
V/S.
M/S. SHRI DUTT INDIA PVT. LTD., & Ors.RESPONDENTS

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT No. 2.

I, Navanath Sambhaji Awatade, aged about 52 years, occupation-service, the Sub Regional Officer, Maharashtra Pollution Control Board at Sangli having my office at Udyog Bhavan, Vishrambag, Sangli-416415. I am filing this affidavit on behalf of the Respondent No – 2 do hereby solemnly affirm state as under.

I am working as the Sub Regional Officer, Sangli with the Maharashtra Pollution Control Board w. e. f. 19/07/2019. I am well conversant with the facts and circumstances of the case as well as the record of the case lying in my office, I am filing this Affidavit only with a limited purpose of bringing on record true facts of the case as under.

I, say and submit that in pursuant to the order dated 29/11/2023, the Board has assessed and communicate the Environmental Compensation to the following units.

1. M/s.Shri Dutt India Pvt. Ltd. (Operator of M/s. Vasantdada Shetkari Sahakari Sakhar Karkhana Ltd). S. No. 173/156/167/188, A/P-Madhavnagar Road, Sangli, Tal-Miraj,Dist-Sangli– Respondent No.1.
- Total Environmental Damage Compensation (EDC) amounting of Rs. 42,30,000/- (Rs. Forty-two lakh Thirty Thousand Only) has



been calculated and the same is communicated to the said Respondent vide letter no. MPCB/RO/KOP/NGT-32/2023(WZ)/EC/FTS-0207, Date 14-02-2024. A Copy is enclosed and marked as an Annexure "A".

2. M/s. Swapnapurti Sugar Ltd., (Operator of M/s Vasantdada Shetkari SSK Ltd.,) S. No. 173/156/167/188, A/P Madhavnagar Road, Sangli, Tal-Miraj, Dist-Sangli. – **Respondent No.4.**

- Total Environmental Damage Compensation (EDC) amounting of Rs. 3,60,000/- (Rs. Three Lakh Sixty thousand only) has been calculated and the same is communicated to the said Respondent vide letter no. MPCB/RO/KOP/NGT-32/2023(WZ)/EC/FTS-0206, Date 14-02-2024. A Copy is enclosed and marked as an Annexure "B".



16 FEB 2024

Solemnly affirmed on the day 16th February, 2024.

Identified by

S. Patil
Adv. (Saurabh S. Patil)

For and on behalf of Respondent No. 2.

Awatade
(Navanath S. Awatade)
Sub Regional Officer-Sangli.



Solemnly affirmed before me by
Shri Navanath S. Awatade
Who is identified before me by M Sangli
Shri Saurabh S. Patil Adv.
whom personally known. M Sangli
Patil
16/2/2024

Item No.11

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.32/2023(WZ)

Raju alias Devavappa Anna Shetty & Ors.

.....Applicant(s)

Versus

M/s Shri Dutt India Pvt. Ltd. & Ors.

....Respondent(s)

Date of hearing: 29.11.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Asim Sarode, Advocate
Respondent(s) : Mr. Dattatray Devale, Advocate for R-1/PP
Mr. Vilas Jadhav, Advocate for R-2/MPCB
Ms. Supriya Dangare, Advocate for R-3/SMKMC

ORDER

1. From the side of applicants, learned counsel Mr. Asim Sarode has appeared.
2. In compliance with our previous order dated 29.08.2023, respondent No.1- M/s. Shri Dutt India Pvt. Ltd./Project Proponent, who was being represented by the learned counsel Mr. Dattatray Devale, was granted time of two weeks to file objection against the Joint Committee Report, but the learned counsel says that he would not like to file the same as he has already filed reply affidavit.
3. From the side of respondent No.2/MPCB, learned counsel Mr. Vilas Jadhav has appeared, who apprised us that the Joint Committee Report mentions at page no.37 of the paper book that upon detailed survey of the area under reference and also based on the report of the MPCB dated 10.03.2023 & 11.03.2023, it was observed that the occurrence of fish kill

at Krishna River first arose from the activity of M/s. Swapnapurti Sugar Ltd.- distillery industry, which has not been impleaded as respondent in the present application by the applicant. We asked the learned counsel for applicants as to why the said unit was not impleaded as one of the respondents in the present application because it had been issued proposed directions by the MPCB on 11.03.2023, which is annexed at page nos.157-158 of the paper book and a closure order was also passed on 12.03.2023, which is annexed at page nos.159-160 of the paper book. He states that he would now implead the said unit as one of the respondents in the present application. We direct him to move an application seeking impleadment of the said unit as respondent No.4 in the present application.

4. We direct the Registry to issue notice to the said newly impleaded respondent, returnable within four weeks.

5. Applicant is directed to take necessary steps for service to the respondents by both ways (Dasti as well as by Registered Post) and also on available e-mail/WhatsApp and submit service affidavit within one week.

6. Applicant is also directed to provide copy of the application and relevant documents to the said newly impleaded respondent within a week.

7. The newly impleaded respondent is directed to submit their reply affidavit within three weeks and also circulate the same to the applicant as also other respondents by available e-mail.

8. Rejoinder, if any, is directed to be submitted within one week thereafter.

9. From the side of respondent No.3/Sangli Miraj Kupwad Municipal Corporation, learned counsel Ms. Supriya Dangare has appeared, who was allowed time of two weeks to file reply affidavit but the same could not be filed. She submits that in the connected Original Application No.69/2022(WZ), she has already filed reply affidavit and the same may be treated to have been filed in the present matter also. We direct her that a copy of the said reply affidavit be also filed in the present case for record.

10. From the side of respondent No.2/MPCB, it is also pointed out by the learned counsel that the Joint Committee has not made any calculation of the EDC with respect to the pollution caused by M/s. Swapnapurti Sugar Ltd.- distillery industry. Therefore, we direct the respondent No.2/MPCB to make the calculation of EDC and submit its report within a period of two weeks with the direction that a copy of the same shall be served upon all other parties, who may file objection against the same, if any, within one week thereafter.

Put up this matter for final hearing on 19.02.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 29, 2023
Original Application No.32/2023(WZ)
P.Kr

6

MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE, KOLHAPUR.

Tel. No. (0231) 2652952,
2660448
Fax No. (0231) 2652952
E-mail:
rokolhapur@mpcb.gov.in



"Your Service Is Our Duty"

Udyog Bhavan, Annexure - A
Near Collector Office,
Kolhapur - 416 003.
Website: <http://mpcb.mah.nic.in>

No. MPCB/RO/KOP/NGT-32/2023(WZ)/ECI/FTS-0207

Date: 14/02/2024.

To,
M/s Shri Dutt India Pvt. Ltd.
(Operator of M/s. Vasantdada Shetkari Sahakari Sakhar Karkhana Ltd.)
173/156/167/188, A/p-Madhavnagar Road, Sangli,
Tal. Miraj, Dist. Sangli.

Sub: Environmental Compensation as per NGT Order dated 29.11.2023.

Ref: 1. NGT Order Dated 29.11.2023 in the Original application No.
32/2023 (WZ)
2. Approval received from competent authority.

Sir,

With reference to above subject Order No. 32/2023 (WZ) has been passed by Honourable NGT dated 29.11.2023. In the last order passed, NGT has directed to levy Environmental Compensation & penalty to your unit. Environmental Compensation has been calculated by MPCB.

In view of the above you are directed to deposit the amount of Rs. 42,30,000/- (Forty Two Lack Thirty Thousand Only) to the Maharashtra Pollution Control Board within 15 days. The details of Account of Maharashtra Pollution Control Board is as below

Bank Name and address : State Bank Of India. Kolhapur Treasury.
Ashish Chambers, 398/B/E ward, Shahupuri, Kolhapur
Account Number : 37822828958
IFSC Code : SBIN0007249

Failure on your part to comply with this Directions Board will take necessary steps for recovery of the said amount which please be noted.

This is issued with the approval of competent Authority.


(J.S. Salunkhe)

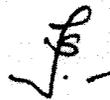
Regional Officer, MPCB Kolhapur.

Copy submitted to

1. Member Secretary, MPCB, Mumbai.
2. Joint Director (WPC), MPCB, Mumbai
3. Law Division, MPCB, Mumbai.

Copy for further follow up:

Sub Regional Officer, MPCB, Kolhapur.- Please go through the NGT order dtd. 29.11.2023 & submit Action Taken Report to HOD with copy to this office for necessary record under intimation.



Report on Environmental Compensation to be levied on M/s Shri Dutt India Pvt. Ltd. (Operator of M/s. Vasantdada Shetkari Sahakari Sakhar Karkhana Ltd). 173/156/167/188, A/P-Madhavnagar Road, Miraj, Sangli, in compliance with order dated 29-11-2023 of Hon'ble National Green Tribunal in the matter of Original Application No. 32 of 2023 (WZ), titled Raju alias Devavappa Anna Shetty & Ors. Vs M/s Shri Dutt India Pvt. Ltd. & Ors..

1. Background

In the matter of Original Application No. 32 of 2023 (WZ), titled Raju alias Devavappa Anna Shetty & Ors. Vs M/s Shri Dutt India Pvt. Ltd. & Ors. As per order Dated 31/03/2023 of the Hon'ble NGT is about the respondent No.1 industry i.e. M/s.Shri Dutt India Pvt. Ltd., Madhavnagar, Tal. Miraj, Dist. Sangli not maintaining their effluent treatment plant (ETP) because of which the effluent is being discharged outside the industry premises, which joins to Krishna River; resulting into death of large number of fishes. Accordingly the Joint Committee has visited & inspected the industry on 29/05/2023 & submitted the joint committee report to Hon'ble National Green Tribunal.

Considering the above non-compliances, MPCB has issued the Proposed directions u/s 33A of the Water (P & CP) Act, 1974, dated 10/03/2023 followed by closure directions u/s 33A of the Water (P & CP) Act, 1974, dated 13/03/2023. The copies of the directions are enclosed collectively Annexure-I & II.

As per Hon'ble NGT order dated 29-11-2023 directed to make the calculation of EDC and submit its report within a period of two weeks. Copy of the said order dated 29/08/2023 is enclosed at Annexure-III.

This report is about the calculation of environmental compensation applicable on the said unit in compliance of the aforesaid order dated 29/11/2023 of the Hon'ble Tribunal.

2. Environmental Compensation

Environmental Compensation for Discharges in violation of consent conditions, mainly prescribed standards / consent limits. Accidental discharges lasting for short durations resulting into damage to the environment. Intentional discharges to the environment i.e. land, water and air resulting in acute injury or damage to the environment.

Methodology recommended in "Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" which has also been referred by the Hon'ble National Green Tribunal in its order (para 14 to 16) dated 28/8/2019 in the matter of Original Application No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. Versus Union

of India & Ors., may be used to calculate Environmental Compensation on the unit for illegal untreated effluent discharge and without any treatment into the environment.

Considering that the unit were discharging effluent in violation of provisions of the Water (Prevention & Control of Pollution) Act, 1974 and also not imparting any treatment to the effluent, the following formula, as referred in the aforesaid report of the CPCB In-house Committee, may be used for levying Environmental Compensation on the unit taking case (a) among the various cases of the said report:

Environmental Compensation (EC) in Rupees = PI x N x R x S x LF

Where,

The unit is under Red Category No. R-60 as per Modified Directions of CPCB dated 07/03/2016, Annexure-IV.

PI = Pollution index of industrial sectors.

The unit falls under Red category, hence PI = 80

N = Number of days violation took place.

N = 141 days. (Season 2022- 2023)

R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. The aforesaid report also suggests considering R as 250 as the Environmental Compensation in cases of violation. Hence, R = 250

S = Factor for the scale of operation.

The unit being Large Scale unit, S=1.5

LF = Location factor.

LF is presumed as 1 for city/town having population less than one million. LF = 1.0

Therefore, Environmental Compensation (EC) in Rupees.

= 80 x 141 x 250 x 1.5 x 1.0

= Rs. 42,30,000/- (Rs. Forty-two lakh Thirty Thousand Only)

3. Environmental Compensation for extraction of ground water:

As industry utilizes the water from Krishna River water supply, hence environmental compensation for extracting ground water may not be applicable to the unit.

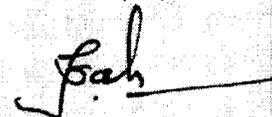
J.F.

4. Conclusions

(i) The environmental compensation applicable on the unit is:

Environmental Compensation for violation of consent conditions & discharge of effluent into the environment is Rs. 42,30,000/- (Rs. Forty-two lakh Thirty Thousand Only) Environmental compensation for extracting ground water may not be applicable to the unit.

Total environmental compensation applicable on the unit is Rs. 42,30,000/- (Rs. Forty-two lakh Thirty Thousand Only)



(J. S. Salunkhe)
Regional Officer,
M.P.C. Board, Kolhapur.

MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE, KOLHAPUR.

10

Tel. No. (0231) 2652952,
2660448
Fax No. (0231) 2652952
E-mail:
rokolhapur@mpcb.gov.in



"Your Service is Our Duty"

Udyog Bhavan,
Near Collector Office,
Kolhapur - 416 003.
Website: http://mpcb.mah.nic.in

Annexure - 'B'

No. MPCB/RO/KOP/NGT-32/2023(WZ)/ECI FTS- 5206

Date: 14/02/2024.

To,
M/s Swapnapurti Sugar Ltd.
(Operator of M/s. Vasantdada Shetkari Sahakari Sakhar Karkhana Ltd.)
173/156/167/188, A/p-Madhavnagar Road, Sangli,
Tal. Miraj, Dist. Sangli.

Sub: Environmental Compensation as per NGT Order dated 29.11.2023.

Ref: 1. NGT Order Dated 29.11.2023 in the Original application No.
32/2023 (WZ)
2. Approval received from competent authority.

Sir,

With reference to above subject Order No. 32/2023 (WZ) has been passed by Honourable NGT dated 29.11.2023. In the last order passed, NGT has directed to levy Environmental Compensation & penalty to your unit. Environmental Compensation has been calculated by MPCB.

In view of the above you are directed to deposit the amount of Rs. 3,60,000/- (Three Lack Sixty Thousand Only) to the Maharashtra Pollution Control Board within 15 days. The details of Account of Maharashtra Pollution Control Board is as below

Bank Name and address : State Bank Of India. Kolhapur Treasury.
Ashish Chambers, 398/B/E ward, Shahupuri, Kolhapur
Account Number : 37822828958
IFSC Code : SBIN0007249

Failure on your part to comply with this Directions Board will take necessary steps for recovery of the said amount which please be noted.

This is issued with the approval of competent Authority.

(J.S. Salunkhe)

Regional Officer, MPCB Kolhapur.

Copy submitted to

1. Member Secretary, MPCB, Mumbai.
2. Joint Director (WPC), MPCB, Mumbai
3. Law Division, MPCB, Mumbai.

Copy for further follow up:

Sub Regional Officer, MPCB, Kolhapur.- Please go through the NGT order dtd. 29.11.2023 & submit Action Taken Report to HOD with copy to this office for necessary record under intimation.

Report on Environmental Compensation to be levied on M/s Swapnapurti Sugar Ltd., (Operator of M/s Vasantdada Shetkari SSK Ltd.), S. No. 173/156/167/188, A/P Madhavnagar road, Miraj, Sangli, Maharashtra, in compliance with order dated 29-11-2023 of Hon'ble National Green Tribunal in the matter of Original Application No. 32 of 2023 (WZ), titled Raju alias Devavappa Anna Shetty & Ors. V/s M/s. Shri Dutt India Pvt. Ltd. & Ors..

1. Background.

In the matter of Original Application No. 32 of 2023 (WZ), titled Raju alias Devavappa Anna Shetty & Ors. V/s M/s Shri Dutt India Pvt. Ltd. & Ors. As per the order of Hon'ble NGT dated 31-03-2023, the Joint Committee has visited & inspected the M/s Swapnapurti Sugar Ltd., (Operator of M/s Vasantdada Shetkari SSK Ltd.), S. No. 173/156/167/188, A/P Madhavnagar road, Miraj, Sangli, Maharashtra on 29/05/2023 & submitted the joint committee report to Hon'ble National Green Tribunal.

Considering the above non-compliances recorded on 11-03-2023, MPCB has issued the Proposed directions u/s 33A of the Water (P & CP) Act, 1974, dated 11/03/2023 followed by closure directions u/s 33A of the Water (P & CP) Act, 1974, dated 12/03/2023 regarding The Leakage from raw spent wash pipeline & subsequent combined discharge from sugar & distillery industries into Krishna River through adjacent nalah(s) and non-compliances of CREP conditions. The copies of the directions are enclosed collectively Annexure-I & II.

As per Hon'ble NGT order dated 29-11-2023 directed to make the calculation of EDC and submit its report within a period of two weeks. Copy of the said order dated 29/08/2023 is enclosed at Annexure-III.

This report is about the calculation of environmental compensation applicable on the said unit in compliance of the aforesaid order dated 29/11/2023 of the Hon'ble Tribunal.

2. Environmental Compensation.

Environmental Compensation for Discharges in violation of consent conditions, mainly prescribed standards / consent limits. Accidental discharges lasting for short durations resulting into damage to the environment. Intentional discharges to the

environment i.e. land, water and air resulting in acute injury or damage to the environment.

Methodology recommended in "Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" which has also been referred by the Hon'ble National Green Tribunal in its order (para 14 to 16) dated 28/8/2019 in the matter of Original Application No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors., may be used to calculate Environmental Compensation on the unit for illegal untreated effluent discharge and without any treatment into the environment.

Considering that the unit were discharging effluent in violation of provisions of the Water (Prevention & Control of Pollution) Act, 1974 and also not imparting any treatment to the effluent, the following formula, as referred in the aforesaid report of the CPCB In-house Committee, may be used for levying Environmental Compensation on the unit taking case (a) among the various cases of the said report:

Environmental Compensation (EC) in Rupees = $PI \times N \times R \times S \times LF$

Where,

The unit is under Red Category No. R-60 as per Modified Directions of CPCB dated 07/03/2016, Annexure-IV.

PI = Pollution index of industrial sectors.

The unit falls under Red category, hence PI = 80

N = Number of days violation took place.

N = 12 days. (Trial production)

R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. The aforesaid report also suggests considering R as 250 as the Environmental Compensation in cases of violation. Hence, R = 250

S = Factor for the scale of operation.

The unit being Large Scale unit, S=1.5

LF = Location factor.

LF is presumed as 1 for city/town having population less than one million. LF = 1.0

Therefore, Environmental Compensation (EC) in Rupees.

= $80 \times 12 \times 250 \times 1.5 \times 1.0$

= Rs. 3,60,000/- (Rs. Three Lakh Sixty Thousand Only)

3. Environmental Compensation for extraction of ground water:

As industry utilizes the water from Krishna River water supply, hence environmental compensation for extracting ground water may not be applicable to the unit.

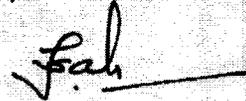
4. Conclusions

(i) The environmental compensation applicable on the unit is:

Environmental Compensation for violation of consent conditions & discharge of effluent into the environment is Rs. 3,60,000/- (Rs. Three Lakh Sixty Thousand Only)

(ii) Environmental compensation for extracting ground water may not be applicable to the unit.

**Total environmental compensation applicable on the unit is Rs. 3,60,000/-
(Rs. Three Lakh Sixty Thousand Only)**



(J. S. Salunkhe)
Regional Officer,
M.P.C. Board, Kolhapur.