

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 89 OF 2023

IN THE MATTER OF:-

Ravindra Kuber Walawade.

.... Applicant.

V/s.

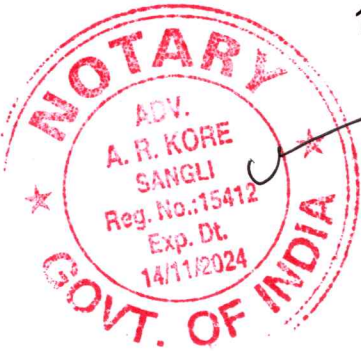
Govt. Medical College & Hospital & Ors. Respondents.

REPLY AFFIDAVIT ON BEHALF OF RESPONDENT No. 3 & 4.

I, Navanath S. 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 – 3 & 4 do hereby solemnly affirm state as under.

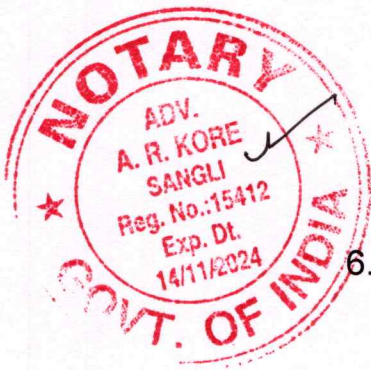
I am working as the Sub Regional Officer, Sangli with the Maharashtra Pollution Control Board w.e.f. 19/07/2019. I am well conversant with the facts and circumstances of the case as well as the record of the case lying in my office, I am filing this Affidavit only with a limited purpose of bringing on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

1. I, say and submit that Respondent No.1- Government Medical College & Hospital, Miraj, Tal-Miraj, Dist-Sangli is the Health Care Institute having 315 beds with laundry activity. The total domestic effluent generation is 90.0 M3/day and industrial effluent generation is 12.0 M3/day.



23 FEB 2024

2. I, say and submit that, the hospital has not provided any Sewage Treatment Plant (STP) for the treatment of domestic effluent and not provided any Effluent Treatment Plant (ETP) for the treatment of industrial effluent generated from the said hospital. The untreated Domestic and Industrial effluent is being continuously discharged into Municipal drainage line.
3. I, say and submit that the hospital has not obtained Combine Consent Authorization (CCA) as per the Acts/Rules.
4. I, say and submit that as per the Board Circular regarding revision of industry category as Red and Orange based on pollution potential vide letter No. MPCB/PSO/BMW/C-220204-FTS-0045, Dated 04-02-2022, the said health care facility has not obtained Combine Consent Authorization (CC&A). A copy of the circular is enclosed as **Annexure-"A"**.
5. I, say and submit that in the order dated 30-11-2023 the Hon'ble National Green Tribunal has given directions that- "MPCB is directed to assess the amount of EDC with respect to not setting up STP as well as not obtaining CC&A, in terms of the principle laid down in the case of Paryavaran Suraksha Samiti and Ors. Vs. Union of India and Ors. (Original Application No. 593/2017).
6. I, say and submit that accordingly in pursuant to the order dated 30/11/2023, Total Environmental Damage Compensation (EDC) amounting of Rs. 4,32,00,000/- (Rs. Four Crore Thirty-two lakhs only) has been calculated based on the Central Pollution Control Board (CPCB) guidelines for imposition of Environmental Compensation Charges against Healthcare Facilities and Common Biomedical Waste Treatment Facilities. As per the Hon'ble National Green Tribunal's Order dated 12.03.2019 in the matter of (Original Application 710 of 2017).



The details of Environmental Damage Compensation (EDC) are as under-

$$\text{HCFs} = \text{HR} \times \text{T} \times \text{S} \times \text{R} \times \text{N}$$

Where; HR – Health Risk factor.

T - Type of Healthcare Facility.

S – Size of Health Care Facility.

R – Environmental Compensation factor.

N– Number of days of Violation.

i.e.

$$\text{HR Score} = 10 + 15 + 15 (5 \times 3) = 40$$

$$\text{T} = 1.0$$

$$\text{S} = 1.0$$

N = 4320 days (from 01.04.2012 as per M. P. C. Board circular dtd. 04-02-2022 to 28.01.2024 date of EDC calculation).

$$\text{R} = 250$$

Therefore, $\text{HCFs} = \text{HR} \times \text{T} \times \text{S} \times \text{R} \times \text{N}$

$$\text{HCF's} = 40 \times 1.0 \times 1.0 \times 4320 \text{ (days)} \times 250 = \text{Rs. } 4,32,00,000/-$$

Therefore the Environmental Compensation applicable to the Hospital is Rs. 4,32,00,000/- (Rs. Four Crores Thirty Two Lakhs only). A copy of detail Environmental Compensation Calculation report is enclosed as **Annexure-“B”**.

Solemnly affirmed on the day February, 2024.

S. S. Patil
Identified by

Adv. Saurabh S. Patil

For and on behalf of Respondent No.3 & 4.

Navanath S. Awatade
(Navanath S. Awatade)

Sub Regional Officer-Sangli.

Solemnly affirmed before me by

Shri Navanath S. Awatade,

Who is identified before me by

Shri Saurabh S. Patil Adv.

whom personally known

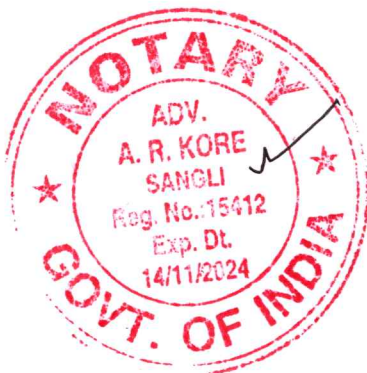
ADV. A. R. KORE

NOTARY REG. NO. 15412

GOVT. OF INDIA

Kaveri Appt., Saraswatinaga

SANGLI - 416 416 (M.S.)



23 FEB 2024



MAHARASHTRA POLLUTION CONTROL BOARD

Tel: 24010437/24020781/24014701

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E-mail: psa@mpcb.gov.in

Website: www.mpcb.gov.in



Kalpataru Point, 2nd- 4th Floor
Opp. Cine Planet Cinema,
Near Sion Circle, Sion (East)
Mumbai- 400 022.

No. MPCB/PSO/BMW/C- 220204 FTS 0045

Date: 4/02/2021

Circular

Sub: - Revision of Industry Category (Red/Orange/Green/White) of Health Care Facilities (HCFs) based on pollution potential.

Ref: - 1. Rule 10 of Bio Medical Waste Management Rules, 2016.
2. CPCB revised industry Categorization Dtd. 30/04/2020.
3. Minutes of the Minutes of 177th MPC Board Meeting Dtd. 06/10/2021.

Chairman Central Pollution Control Board issued directions dated 04.06.2012 to all SPCB under section 18 (1b) of Water (Prevention and Control of Pollution) Act, 1974 and Air (Pollution Prevention and Control) Act, 1981 wherein directed SPCBs to follow the "Revised list of RED, Orange, Green, White Category" for Consent management. Further, on 30/04/2020 CPCB issued Revised categorization of industry wherein HCFs are categorized into RED and Orange category.

In compliance MPCB in its 177th Board Meeting decided to adopt following classification of HCFs and industries Generating / Handling Bio Medical Waste.

A) RED Category:

1. Common BMW Treatment Facilities and Industries generating/ handling BMW
2. HCFs having **captive** BMW incinerator
3. HCEs having coal /oil fired Boiler, and/or captive laundry activity
4. HCFs not having 2 & 3 above but generating Sewage/effluent quantity more than 100 KLD

OR

5. HCFs having more than 100 Beds

B) ORANGE Category:

1. HCFs not having captive BMW incinerator,
2. HCEs not having coal /oil fired Boiler, and/or captive laundry activity
3. HCEs generating Sewage/effluent less than 100 KLD

OR

4. HCFs up to 100 Beds

HCFs Industry Categorization as above shall be applicable with effect from **1st December 2021.**

Consent to Establish for HCFs (Red & Orange Category) shall be valid for FIVE years from the date of issue subject to prior submission of requisite Fees and applicable

Bank guarantee for compliance of consent conditions and Environmental Clearance, if applicable.

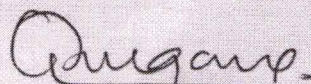
Combined Consent and BMW Authorization (CCA) for **RED** category HCFs (Consent to Operate / Renewal) shall be admissible for max 5 Terms of One year i.e. **5 Years**.

Combined Consent and BMW Authorization (CCA) for **ORANGE** category HCFs shall be Eligible for CCA (Consent to Operate/ Renewal) of Max. of FIVE terms of 2 Yr. i.e. **10 Years**.

Long Terms CCA (First Operate / Renewal) shall be admissible subject to following as applicable:

1. Payment of advance fees for entire duration.
2. Having valid membership of Common Facility of the proposed duration,
3. Having adequate ETP/ STP meeting the discharge standards and Adequate APCD meeting emission standards as per CTE/CTO and,
4. Online BMW Annual Report submission on MPCB portal every year before due date.
5. Submission of valid Performance Bank Guarantee imposed, if any, valid for entire period of CCA, prior to issue of CCA.

Bedded HCFs (51 and above beds) failing to obtain CCA (Consent to Establish, Operate / Renewal) shall be levied penal fees w.e.f. April 2012. HCFs less than 51 Beds shall be levied penal fees for not obtaining CCA (Consent to Establish, Operate / Renewal) w.e.f. December 2021. HCFs shall also attract other penal fees as is in force. Also, HCFs failing to obtain CCA and comply with conditions under Water (P&CP) act, 1974 & Air (P&CP) Act, 1981 and Bio Medical Waste Management rules, 2016 shall attract Environmental Compensation Charges (ECC) as applicable.


(Ashok Shingare, IAS)
Member Secretary

Copy submitted to: Hon'ble Chairman, MPCB, Sion, Mumbai - for favour of information
Copy to:

1. PSO / JD-APC / JD-WPC / RO-HQ, for information.
2. All RO, MPCB for information & Necessary Action.
3. All SRO, MPCB for information & Necessary Action
4. SO / EIC-For uploading on MPCB Website

Environmental ²⁵³ Damage Compensation Report

Report on Environmental Damage Compensation to be levied on M/s. Government Medical College & Hospital & Ors., Plot No. 969/1B, Miraj, Tal. Miraj, Dist. Sangli in the Compliance with the Order passed by Hon'ble National Green Tribunal (WZ) dated 30.11.2023 in O.A. No. 89 of 2023 filed by Mr Ravindra Kuber Walawade (Applicant).

.....

[1] Background:-

In the matter of Original Application No. 89/ 2023 (WZ), Mr Ravindra Kuber Walawade (Applicant) V/s Government Medical College & Hospital & Ors filed before Hon'ble National Green Tribunal (NGT). The Hon'ble NGT (WZ) directed vide Order dated 30.11.2023 in the aforesaid matter that Maharashtra Pollution Control Board (MPCB) will assess /calculate Environmental Compensation on the basis of the principle / formula in accordance with the guidelines framed by the Central Pollution Control Board in terms of the principle laid down in the case of Paryavarán Suraksha Samiti and Ors Vs. Union of India and Ors. (Original Application Nos. 593 / 2017). The Respondent No. 1 i.e. M/s. Government Medical College & Hospital & Ors., Plot No. 969/1B, Miraj, Tal. Miraj, Dist. Sangli does not obtain CCA even till the date of calculation of environmental compensation also neither provided the Effluent / Sewage Treatment Plant.

This report is about calculation of Environmental Compensation applicable for the said Hospital prepared from Shri N. S. Awatade, Sub Regional Officer, M.P.C. Board, Sangli, in compliance of the aforesaid order issued by Hon'ble NGT-WZ.

[2] Environmental Compensation:-

Environmental Compensation is calculated based on the CPCB guidelines for imposition of Environmental Compensation Charges against Healthcare Facilities and Common Biomedical Waste Treatment Facilities (As per Hon'ble National Green Tribunal's Order dated 12.03.2019 in the matter of O. A. 710 of 2017).

As per the Order issued by Hon'ble National Green Tribunal (NGT-WZ) "MPCB is directed to assess the amount of EDC with respect to not setting up STP as well as not obtaining CC&A, in terms of the principle laid down in the case of Paryavarán Suraksha Samiti and Ors. Vs. Union of India and Ors. (Original Application Nos. 593/2017) by filling an affidavit and a copy of the same shall also be served upon the respondent No. 1 and other parties within a week and one week thereafter"

Note:-

As per the Circular issued by Maharashtra Pollution Control Board dated 04/02/2022 vide No. 220204FTS0045 it's mentioned that:- "**Bedded HCF's (51 and above beds) failing to obtain CCA (Consent to Establish, Operate / Renewal) shall be levied penal fees w.e.f. April, 2012. HCF's less than 51 Beds shall be levied penal fees for not obtaining CCA (Consent to Establish, Operate / Renewal) w.e.f. December, 2021**".

:2:

Earlier this office has issued warning Notice, Show Cause Notice and recently Proposed Direction was issued on 07.09.2023. The non-compliances are mentioned in the earlier Notice issued i.e. -

- [1] Failed to obtain Combined Consent to Operate the Bio medical waste authorization.
- [2] Not provided treatment for the waste water generated from hospital, pathology laboratory activity.

As per the guidelines following cases will be considered for taking cognizance of non-compliance and fit for levying Environmental Compensation:

Environmental Compensation for HCFs is calculated as –

$$\text{HCFs} = \text{HR} \times \text{T} \times \text{S} \times \text{R} \times \text{N}$$

Where; HR - Health Risk factor

T- Type of Healthcare Facility S -

Size of Health Care Facility

R - Environmental Compensation factor N -

Number of days of Violation

HR

Health Risk (HR) is a number from 0 to 100 and increasing HR value denotes the increasing degree of health risk due to improper handling of BMW in healthcare facility:-

Health Risk Score (HR)	No arrange ment for disposal of BMW with CBWTF (1)	Not Applied for Authori zation (2)	Improper Segregati on of BMW (3)	No Pre-treatmen t (4)	On-site storage not provided or not adequate (5)	No ETP Despite requir ement (6)	Score for each of Other Violatio ns of BMW Rules, 2016 (7)
Health Risk Score (HR)	30	<u>10</u>	20	10	10	<u>15</u>	5 (X3)

Note: Score of 5 to be added for each of other violations at column (7), with sum of HR limited to 100. - HR is sum of (1) + (2) + (3) + (4) + (5) + (6) + (7) [restricted to 100]

:3:

T: is a factor for type of healthcare facility, as given below:

Type of Healthcare Facility	T Factor
Bedded Hospitals	1.0
Bedded Ayush Hospitals	0.5
Non-bedded (veterinary hospital, pathological laboratory, blood bank)	1.0
Non-bedded (clinic, dispensary, and clinical establishment)	0.5
Animal Test Houses	1.0

S: is a factor for size of Healthcare Facility (HCFs) based on number of beds of the Healthcare Facility, as given below:

Size of Healthcare Facility (HCFs)	S Factor
Non-bedded (clinic, dispensary, and clinical establishment)	0.15
Non-bedded (veterinary institution, pathological laboratory, blood bank)	0.2
1 to 10 bedded HCFs	0.20
10 to 50 bedded HCFs	0.30
50 to 100 bedded HCFs	0.50
100 to 500 bedded HCFs	1.00
500 and more bedded HCFs	1.50
Animal Test House	1.00

N: is number of days for which violation took place is the period between the day of violation observed/due date of implementation as per BMWM Rules, 2016/due date of compliance of directions and the day of compliance verified by CPCB/SPCB/PCC.

R: is a factor in Rupees, taken as 250

Further, in any case minimum Environmental Compensation in respect to Healthcare Facility shall not be less than Rs.1200/- per day.

:4:

Therefore considering the above non compliances the Environmental Compensation is -

$$\text{HCFs} = \text{HR} \times \text{T} \times \text{S} \times \text{R} \times \text{N}$$

Where; HR – Health Risk factor.

T - Type of Healthcare Facility.

S – Size of Health Care Facility.

R – Environmental Compensation factor.

N– Number of days of Violation.

i.e.

$$\text{HR Score} = 10 + 15 + 15_{(5 \times 3)} = 40$$

$$\text{T} = 1.0$$

$$\text{S} = 1.0$$

$$\text{N} = 4320 \text{ days (from 01.04.2012 to 28.01.2024)}$$

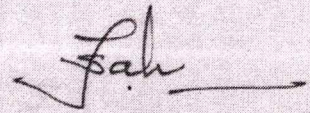
$$\text{R} = 250$$

$$\text{Therefore, HCFs} = \text{HR} \times \text{T} \times \text{S} \times \text{R} \times \text{N}$$

$$\text{HCF's} = 40 \times 1.0 \times 1.0 \times 4320 \text{ (days)} \times 250 =$$

$$= \text{Rs. } 4,32,00,000/-$$

- [1] Therefore the Environmental Compensation applicable to the Hospital is **Rs. 4,32,00,000/-**
(Rs. Four Crores Thirty Two Lakhs only).
- [2] The Total Environmental Compensation applicable on the HCFs is **Rs. 4,32,00,000/-**.


Regional Officer,
M.P.C. Board, Kolhapur.