

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

IA No. 815 of 2025 (Condonation of Delay)

In Appeal No. 431/2025

M/s. S. S. Services ..... Appellant

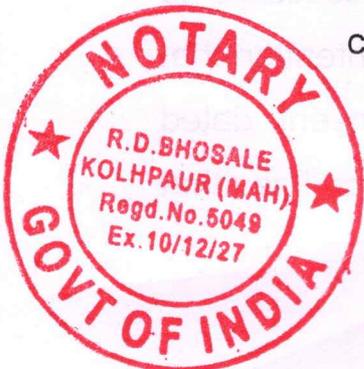
Vs

Central Pollution Control Board & Ors ..... Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 3,  
MAHARASHTRA POLLUTION CONTROL BOARD:-**

I, Nikhil Gharat, Aged- 39 Adult, Occupation-Service, the Regional Officer of the Maharashtra Pollution Control Board, Udyog Bhavan Building, Near Collectorate Office, Kolhapur - 416 002, do hereby solemnly affirm and state as under :-

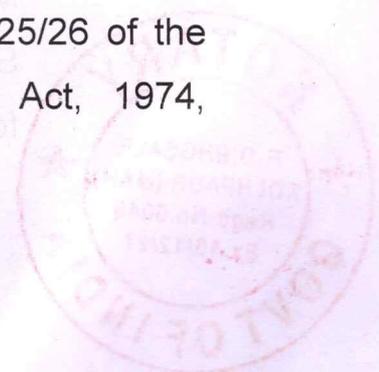
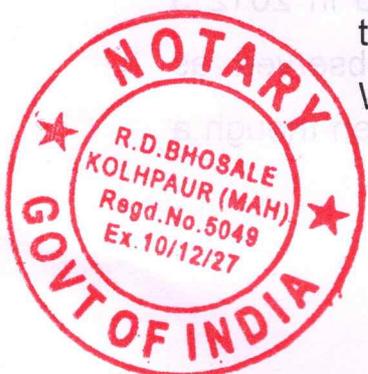
1. I say that I am the Regional Officer of Respondent No.3 - MPCB and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the above matter and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the above-captioned Application. Nothing in the above-captioned Application may be deemed to have been admitted for mere want of specific denial. I also crave leave to file a detailed affidavit, if so required.



2. At the outset, it is submitted that the present Application has been filed seeking condonation of delay in filing an Appeal challenging the Impugned Consent dated 30/06/2023, Amended Consent dated 01/08/2023 and the impugned order dated 27/02/2024 passed by the Present Respondent thereby granting consent to establish Common Bio Medical Waste Treatment Facility to Respondent No.4.
3. I say that the contention of the Appellant raised in the Appeal with regard to Section 14 of the Limitation Act 1963 is incorrect and the Appellant cannot have the benefit of the said Section. I deny that there is no delay on the part of the Appellant so the Appellant can't have the benefit of Section 14 of the Limitation Act. I say that in paragraph No. 13 of the Appeal, it can be clearly seen that the Appellant was aware of the minutes of 30<sup>th</sup> Consent Committee of 2022-2023 held on 25.1.2023 Respondent which is annexed at Annexure 13 (Serial No.19) of the Appeal in which it was specifically stated, "after due deliberation, Committee decided to approve Consent to Establish in principle, subject to submission of certain documents." I say that the said 30<sup>th</sup> Consent Committee Minutes were uploaded on MPCB's Website on 9.2.2023. A copy of email send by web portal helpdesk of the present Respondent dated 9.2.2023 is enclosed as marked an Annexure I (mention uploaded). I say that since 9.2.2023 those Minutes are in public domain and are accessible to everyone. I say that therefore, the Appellant's contention that he came to know about granting of the Consent dated 30/06/2023 after issuance of the same, is incorrect. I say that



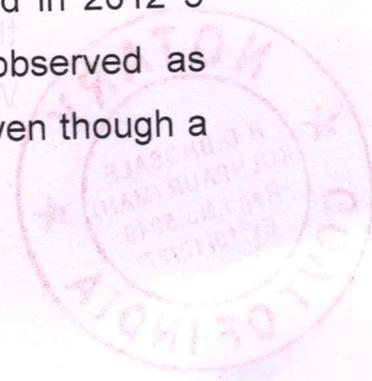
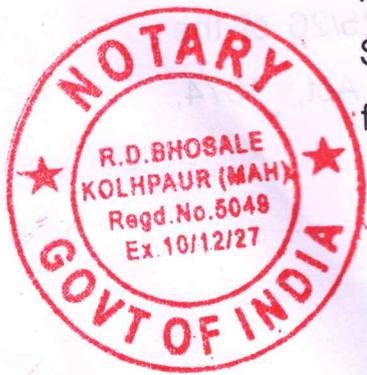
instead of filing an Appeal u/s 16 of the NGT Act challenging the Consent to Establish dated 30/06/2023, the Appellant approached the Hon'ble High Court of Bombay vide Writ Petition No. 10808/2023 seeking direction to decide the representation dated 19/07/2023 submitted before the Present Respondent. I say that the Appellant clearly did not avail the remedy of appeal u/s 16 of the NGT Act. I say that the Hon'ble Bombay High Court vide order dated 12/01/2024 directed the Present Respondent to decide the Representation dated 19/07/2023 and pass appropriate order. I say that the said order is annexed as A-18 to the Appeal. I say that it was specifically stated in the HC order dated 12/01/2024 "In case any party is aggrieved by the decision taken on the Representation, such party is free to take legal recourse, and the said Writ Petition had disposed on the very same day i.e. 12/01/2024. I say that accordingly, the present Respondent, by email dated 19/01/2024, called the Appellant as well as Respondent No.4 on 23/01/2024 and 12.2.2024, and issued letter to M/s S S Services (CBMWTF), Kasaba Bawada, Near Drainage Plant, Behind Circuit House, Kolhapur vide letter dated 27.2.2024. I say that the Present Respondent then passed the impugned order dated 27/02/2024 after considering all the documents submitted on record and in compliance with the Guidelines issued by CPCB for Bio Medical Waste Treatment and Disposal Facility, thereby rejecting the objections raised by the Appellant. I say that the in principle approval was granted u/s 25/26 of the Water (Prevention and Control of Pollution) Act, 1974,



therefore the appellant if aggrieved was duty bound to file an appeal u/s 28 of the Water (Prevention and Control of Pollution) Act, 1974 within 30 days from the date on which the order was communicated to him. I say that in this case, the Appellant could have filed the appeal u/s 28 of the Water (Prevention and Control of Pollution) Act, 1974 from the date 9.2.2023 when the said minutes of 30<sup>th</sup> Consent Committee meeting were uploaded on the website of present Respondent within 30 days. I say the Appellant has failed to do so.

4. I say that the Appellant again challenged the order dated 27/02/2024 before the Hon'ble Bombay High Court arising out of the Consent to Establish vide Writ Petition No. 5283/2024 (filed on 12/08/2024), instead of filing an Appeal before this Hon'ble Tribunal. I say that the Hon'ble Bombay High Court, by its order dated 16/06/2025, disposed of the Writ Petition with liberty to adopt the alternate remedy available u/s 16 of the NGT Act 2010. I say that the said order is annexed as Annexure A-34 to the Appeal. I say that the Hon'ble Bombay High Court has specifically stated that "period spent in prosecuting the petition shall be considered u/s 14 of the Limitation Act 1963". This statement is only relevant to the Writ petition No. 5283/2024 and the Appellants have to explain the delay occurred from the date of grant of Consent to Establish i.e. 30/06/2023 till filing of this Appeal on 14/07/2025.

5. It is submitted that, in the case of Maniben Devraj Shah v Municipal Corporation of Brihanmumbai reported in 2012 5 SCC 157, the Hon'ble Supreme Court has observed as follows: What needs to be emphasised is that even though a

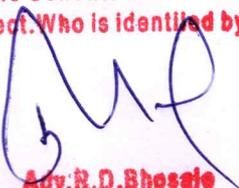


liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the Courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression sufficient cause would get in the factual matrix of a given case would largely depend on bonafide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.

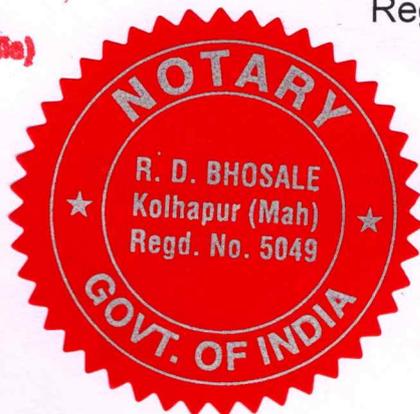
6. In light of the above facts and Law, this Hon'ble Tribunal should not condone the delay in the present case.

Solemnly affirmed on this 04<sup>th</sup> Day of December 2025 at Kolhapur.

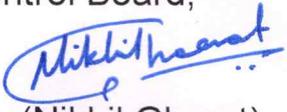
Notary / Sr./No.:- 3581/2025  
 Solemnly affirmed & Signed / L.H.T.L.AFFIDAVIT  
 me by Nikhil Gharat  
 & State that the Contents of the Affidavit are  
 true and correct. Who is identified by self

  
 Adv. R.D. Bhosale  
 Notary Public (Govt. of India)  
 Dist. Kolhapur

4 DEC 2025



For and on behalf of  
 Maharashtra Pollution  
 Control Board,

  
 (Nikhil Gharat)  
 Regional Officer-Kolhapur  
 Respondent No.-3



Outlook

Annexure - I

1509

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RE: 30th Consent Committee Meeting of 2022-23

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From Portal Support <portalsupport@mpcb.gov.in>

Date Thu 2/9/2023 6:51 PM

To JD Water Division <jdwaterdivision@mpcb.gov.in>; EIC <eic@mpcb.gov.in>

Uploaded.

Thanks and Regards,  
Support Engineer  
WEB-PORTAL HELPDESK  
MAHARASHTRA POLLUTION CONTROL BOARD

Every tonne of paper saved, saves 17 trees.  
Go Green, each one for better Earth.

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From: JD Water Division [jdwaterdivision@mpcb.gov.in]

Sent: Thursday, February 9, 2023 6:37 PM

To: EIC; Portal Support

Subject: 30th Consent Committee Meeting of 2022-23

The index & minutes of 30th Consent Committee Meeting of 2022-23 held on 25.01.2023 are attached herewith.

You are requested to host the same on website

Regards,

Dr. Y. B. Sontakke  
Joint Director (WPC)  
Maharashtra Pollution Control Board  
Sion, Mumbai - 400 022.