

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 21 OF 2024

Lavino Kapur Cottons Pvt. Ltd.

APPLICANT

Versus

Maharashtra Pollution Control Board

& 2 Ors

RESPONDENTS

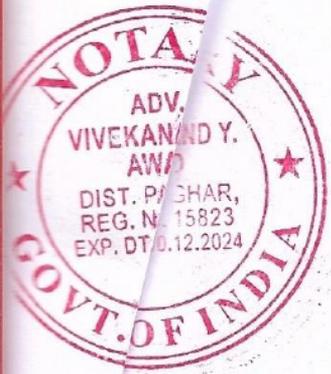
REPLY AFFIDAVIT

(FILED ON BEHALF OF RESPONDENT NO.3)

I, Mr. Gajanan Sahebrao Jadhav, Age- 54 years, Occ- Service, working as a CETP Plant Manager with Tarapur Environment Protection Society, O/At:- Plot no. AM-29, Near Shivaji Nagar, MIDC-Tarapur / Boisar, Dist- Palghar, Pincode - 401506 , do hereby solemnly affirm

THAT: -

1. The Original Application (OA) is hopelessly time barred. The present OA is filed under the pretext that Applicant is not required to have CETP membership even though the condition with regard to the same was incorporated in Applicant's consent



to operate dated back in the year 2005. As per various renewal consents granted from time to time to the Respondent No.1 (MPCB) had directed the Applicant to have a CETP membership in order to carry out and continue its factory/ plant operations in MIDC at Tarapur in which the condition to have membership of CETP was mandatory and that the Applicant was specifically directed that the treated trade effluent from the ETP maintained by the Applicant shall be recycled and remaining shall be sent to CETP after conforming the standards prescribed in such consent to operate. The condition specifically spells out that in no case at any time effluent shall find its way to waterbody directly or indirectly. The Respondent states that the above condition is also found in the last renewed consent to operate dated 06.03.2019 which expired on 13.11.2023. The Applicant has admittedly not challenged such condition in consent to operate at any point of time and thus has acquiesced with the same.

2. Respondent further states in its own admission Applicant has stated that it has been paying treatment charges from year 2005 till 2023 to the Respondent No.3 i.e. TEPS-CETP. It is only as an afterthought that the Applicant now in the present OA

allegedly claims such payments to be made under protest (Ref-Para 3 of the OA). Thus, on this ground alone the present Original Application is liable to be rejected for being hopelessly time barred under provisions of National Green Tribunal Act, 2010.

3. As regards remaining part of Para 3, it is categorically denied that Applicant was forced to take membership of CETP. It is further denied that Applicant though not the member of TEPS has been making payment under duress and protest. The Respondent No.3. Applicant admittedly holds share certificates issued by TEPS and is a registered member of the Respondent No.3.
4. As regards Para 4 (a) & (b), the Respondent does not wish to reply or comment for want of knowledge.
5. As regards Para 4 (c), the contents are partially correct.
6. Contents of Para 4 (d) to (f) are denied. It is not true to say that the CETP is introduced for small scale units (SSUs) alone especially when seen in the context of present day environmental legislations and norms. It is not correct on the part of the Applicant to refer to the era of 2005 and contend in the year 2023 that the units having independent ETP should not





be asked to contribute to CETP. The allegation that MPCB officials insisted that the Applicant should contribute Rs.15,00,000/- to CETP is totally baseless. In fact the present Respondent has already filed on record copies of the share certificates issued by TEPS i.e. the present Respondent against the contribution made by the Applicant to CETP in respect of the treatment capacity of 421 CMD at the rate of Rs. 3612.5 / CMD. It is in fact observed that the Applicant has expanded its operational capacity to 1380 CMD without any prior approval or consent from TEPS-CETP and has also not made any contribution to TEPS for such expansion. Applicant has further falsely stated that it is bearing twice the costs for discharge within the same norm. In fact, the discharge norms and conditions as incorporated in Applicant's consent to operate are issued by MPCB after consideration of the fact that the Applicant is a member of TEPS-CETP.

7. The contents of Para 4 (g) are not true. To the contrary, the action initiated against Applicant for non-compliance of the sludge management shows that it has been in continued with violation of its prescribed norms. Moreover there are no

documents filed in support of the alleged contentions as raised in Para 4 (g).

8. As regards Para 4 (i), this Hon'ble Tribunal may take note of the fact that a separate appeal allegedly referred to as bearing filing no. 2704138010282021 (now numbered as Appeal No. 9 of 2024); even though allegedly filed for challenging a letter dated 23.10.2020 issued by MPCB; is in fact filed to challenge the orders/directions issued by this Hon'ble Tribunal pursuant to its order dated 17.09.2020 passed in OA No. 64 of 2016 directing the concerned parties to deposit an interim compensation. It is stated that no such appeal can be filed or maintained before this Hon'ble Tribunal for want of jurisdiction. It is further relevant to note that there is also final judgement and order passed in the said OA No. 64 of 2016 and thus the challenge to the interim order or any letter issued by MPCB pursuant to the said interim order does not survive and for the said reason the said appeal is liable to be dismissed and rejected at the threshold. The present Respondent has already filed on record various orders of this Hon'ble Tribunal and the orders/ directions passed by the Hon'ble Supreme Court of India connected with the OA No. 64 of 2016 which are filed at



Pg no. 12 to 636 of the compilation of documents filed by this Respondent on 07.02.2024 in the present case; as also referred and recorded in the daily order dated 08.02.2024 issued in the present case.

For the above reasons Para 4 (j) and (k) are redundant and need not be replied to.

10. The contents of Para 4 (m) to (v), refer to various notice, replies, communication between the parties the contents of which can be read in the context they were communicated by the relevant party. Any allegations made against this Respondent based on the said communications are denied.
11. As regards para 4 (w) and 4 (aa), the present Respondent refers to and relies on the CETP draft notification dated 04.01.2023 (produced at Pg no. 3 to 11 of the compilation of documents referred above) which clearly defines the roles, responsibility and authority of the CETPs in the scheme of environment protection as intended by the legislature. Thus, all the allegations made against the present Respondent in the Para 4 (w) to 4 (aa) are denied in toto.
12. The alleged grounds and contentions in Para 5 (a) to Para 5 (n) are denied for the reasons as aforesaid.



13. Contents of Para 8 are denied. The alleged reference to the letters dated 16.05.2022 and 20.06.2022 issued by TEPS to the Applicant, as the date of cause of action is totally misleading and false ground raised to assert a fresh cause of action. If the prayer clause 13 is to be seen and also the entire tenor of the original Application, refers to challenge set up by the Applicant to –

- a) the need for / condition of membership of TEPS issued by MPCB (Respondent No.2)
- b) Respondent's (TEPS's) right to demand treatment charges.
- c) Respondent's (TEPS's) demands for recovery of sludge management charges.
- d) Respondent's (TEPS's) demands for recovery of environmental compensation paid by the TEPS to the concerned Authority in O.A. No. 64 of 2016 on behalf of its member industry including the Applicant herein.

Thus the cause of action with respect to the reliefs sought, if at all to be considered by this Hon'ble Tribunal, are dated back in the year 2005 and/or order latest on 17.09.2020 when this Hon'ble Tribunal passed an order for interim compensation.



Respondent states that by no stretch of imagination is the present application filed within time. Without prejudice to above, even referring to the alleged cause of action dated 20.06.2022 the present Original Application is filed outside the limitation period as prescribed under Sec. 14 of National Green Tribunal Act, 2010. The OA is therefore required to be rejected and dismissed on the point of limitation alone.

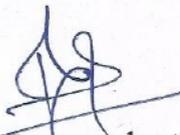
14. None of the prayers as sought under prayer (a) to (i) as stated in prayer clause no 13 are maintainable before this Hon'ble Tribunal. The Applicant cannot blow hot and cold at the the same time. Applicant can not seek blanket permission in the form of 'right to discharge' without challenge to various conditions in its consent to operate issued by the Respondent No.1 (MPCB). It is also in violation of applicable environmental laws/ rules and notifications to seek relief for non-requirement of CETP membership despite being an effluent discharging industry. Similarly, no blanket restraint orders can be passed against the Respondents prohibiting them from enforcing environmental laws and regulations. In fact, language as contained in prayer (d) suggests Applicant's blatant disregard towards law and judicial orders. Under the guise of

the present Original Application, the Applicant is in fact trying to avoid enforcement of the environmental directions and orders passed by this Hon'ble Tribunal as well as those issued by the Hon'ble Supreme Court of India.

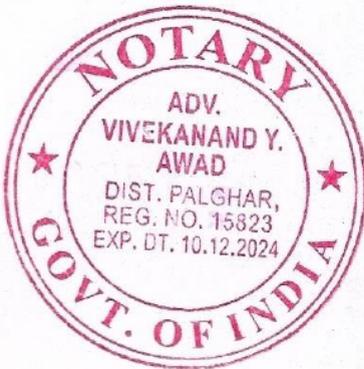
15. In view of the facts and circumstances, the present Original Application needs to be rejected by imposing heavy costs on the Applicant.

WHATEVER STAEAND VERIFY THE CONTENTS OF PARA 1 TO 15 ABOVE AS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AND IN WITNESS WHEREOF I HAVE SIGNED HEREUNDER ON THIS 2nd DAY OF MARCH 2024 AT TARAPUR-BOISAR, DIST- PALGHAR.




TEPS (Respondent No.3)

Through Authorised Signatory



SIGNED BEFORE ME

VIVEKANAND Y. AWAD
Advocate & Notary
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Katkar Pada, Boisar,
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2 MAR. 2024

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 To
 सज्जद सहेबराव जाधव
 Sajjad Santhrao Jadhav
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