

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH PUNE  
ORIGINAL APPLICATION NO. 55/2021 (WZ)**

**IN THE MATTER OF:-**

Tousif Bagnikar - Applicant.

V/s.

Nix Polymers and Ors. - Respondent.

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 5  
& 6 - MAHARASHTRA POLLUTION CONTROL BOARD.**

I, Vidyasagar Vilasrao Killedar, aged about 51 years, occupation: service, the Sub-Regional officer, Maharashtra Pollution Control Board at Sangli, having my office at Udyog Bhavan, Vishrambag, Sangli - 416415. I am submitting this affidavit on behalf of the Respondent No. 1 do hereby solemnly affirm state as under:

That, I am working as the Sub-Regional Officer, at Sangli with the Maharashtra Pollution Control Board w.e.f. August 2024. 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 for limited purpose to bring on record the true facts of the case.

1. I say and submit that as per this Hon'ble Tribunal direction dated 24-01-2025, the Respondent No.5 & 6-MPCB has been directed to file an affidavit-in-reply regarding a circular on 29.03.2023 issued by MPCB by which directed the period from 01-04-2020 to 31-03-2021 shall be exempted for submission of application for consent/Authorization as well as whether in the light of this circular, the said

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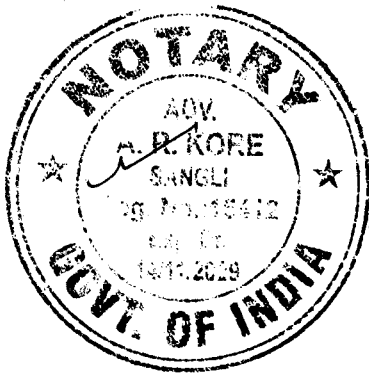
Suo Moto – NGT (PB) O.A. 1364 of 2024.

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at Serial Numbers ..... 93/2025  
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period ought to have been excluded while computing the EDC.”

2. I say and submit that the Board had granted consent to Establish to M/s. Nix Polymers vide letter No. MPCB/RO/KOP/SROS/KP-17285-15/477/12/10880, dtd. 14-08-2015 which was granted for a period up to commissioning of the unit or 5 years whichever is earlier for manufacturing of Fiber Glass Reinforced Plastic Products under Red Category. It is submitted that the Respondent Industry has started its operations without consent to operate from 26.05.2015. The same has been reported by the Joint Committee in its report dated 23.08.2021 as per order dated 3.8.2021.
3. I say and submit that the industry had again applied for consent to establish (expansion) instead of consent to operate on 6.10.2021 bearing UAN No. MPCB-CONSENT-0000123159 (Month and year of commissioning of the unit is mentioned 01.01.2015) for the product of unsaturated Polyester Resin under Orange Category (As per Central Pollution Control Board modified directions regarding harmonization of classification industrial sector under Red/Orange/Green/White categories. dated 07 March 2016). In view of various non-compliance observed during scrutiny, the Board had refused said consent application vide letter No. BO/MPCB/AS(T)/Refusal/B-2206000589, dated 14-06-2022. I crave leave to submit the letter dated 14.6.2022 as & when required by this Hon'ble Tribunal.
4. I say and submit that the industry has started its operation and production activity w.e.f. 26.05.2015 without obtaining consent to operate till date of closure direction issued on 27.9.2021.



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5. I say and submit that the Board has observed that often Industries were found to be violating mandatory provisions to obtain consent to Establish/ Operate u/s. 25/26 of the Water (Prevention and Control of Pollution) Act, 1974, u/s 21 of the Air (Prevention and Control of Pollution) Act, 1981 & authorization under Hazardous & other Wastes (Management & Transboundary Movement)Rule, 2016. Therefore, the Board has issued Circular No. BO/MPCB/AS(T)/Circular/B-220712-FTS-0047, Dated 12-07-2022, to imposed appropriate penal fees on occupier towards violation of Environment enactments, as per category of the industry. A copy of said circular dated 12.7.2022 is enclosed and marked as an Annexure "I".
6. I say and submit that the Respondent Board had issued another Circular No. MPCB/JD(WPC)/Circular/B-230329-FTS-0211, dated 29.03.2023 whereby COVID Pandemic Lockdown period has been exempted from submission of application for Consent/Authorization i.e. period from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March, 2021 & for the said period only regular consent fees has been charged by the Board.
- i) However, the present Applicant Industry was in operation wef 26.5.2015 to 27.9.2021 without consent to Operate which covers period from 1.4.2020 to 31.3.2021 which has been exempted for submission of application for consent/authorization & for which regular consent fees will be charged after submission of consent application as per circular dated 29.3.2023.
  - ii) The said circular dated 12.7.2022 and 29.3.2023 stipulates only penal fees and



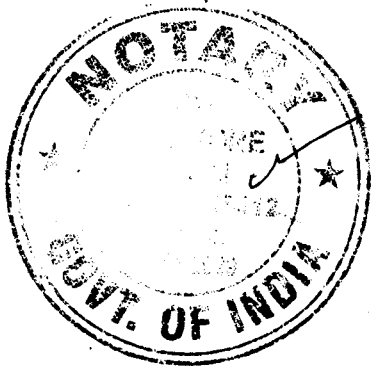
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exemption for submission of application for consent/Authorization. Therefore, the Board cannot exempt Environmental Damage Compensation for the said period which has been calculated as violation days. The Board is charging regular consent fees for said period only. The copy of the said Circular dated 29.3.2023 is enclosed marked as an **Annexure-"II"**

7. I say and submit that the above Respondent industry was Establish on 26.05.2015 without consent to operate which was before COVID Pandemic Situation. The said industry was operating without consent to operate w.e.f. 26.5.2015 to 27.9.2021. Therefore, the Environmental Damage Compensation has been calculated from 26.05.2015 to 27.09.2021. As per the District Collector has issued order dated 22.3.2020 it was alleged by the applicant that Industry remain closed for 8 days i.e from 23.3.2020 to 31.3.2020. As per District Collector order dated 22.3.2020 all the industries in M. I. D. C. Kupwad including M/s. Nix Polymers, Plot No. L-57, MIDC Kupwad was closed as informed by the M I. D. C. authority telephonically.

In view of above facts, it is submitted that circular dated 29.3.2023 is not applicable for exemption of EDC. Therefore, the Board has decided not to exempt Environmental Damage Compensation for the period i.e. 26.5.2015 to 27.9.2021 since the industry was in operation without consent to operate from the Board. The Board had calculated Environmental Damage Compensation of Rs. 1,51,56,250/- and after deducting 8 days revised EDC is Rs. 1,51,06,250/- The Board has considered exemption of EDC

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only for 8 days for which the industry has been closed as per District Collector order dated 22.3.2020. If Hon'ble NGT allows said calculation, the Board will issue appropriate notice to the Applicant.

Solemnly affirmed on the day 30<sup>th</sup> January 2025.

For and on behalf of Respondent No. 5 & 6.

*A.M. Patil*  
Identify by me.  
Adv. A.M. Patil

*V. Killedar*  
(Vidyasagar V. Killedar)  
Sub Regional Officer  
Maharashtra Pollution Control Board, Sangli

**VERIFICATION**

I, Vidyasagar V. Killedar, Age-51 Years, working as Sub Regional Officer, Maharashtra Pollution Control Board at Sangli having my office at Udyog Bhavan, Vishrambag, Sangli-416416 do hereby state on solemn affirmation what is stated in the forgoing affidavit in reply to my own knowledge and I believe the same to be true and correct.

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Solemnly affirmed on the day 30<sup>th</sup> January 2025.

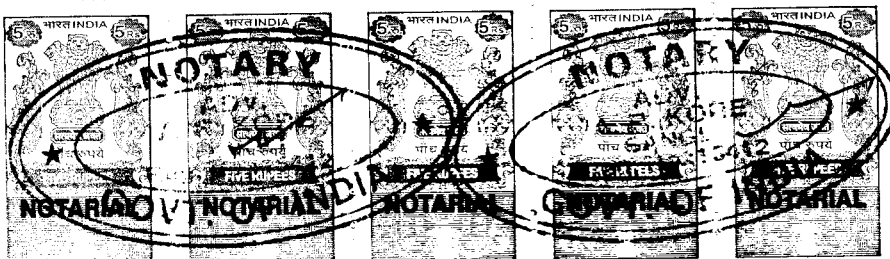
For and on behalf of Respondent 5 & 6.




*V. Killedar*  
(Vidyasagar V. Killedar)  
Sub Regional Officer  
Maharashtra Pollution Control Board, Sangli.

Solemnly affirmed before me by  
Shri Vidyasagar V. Killedar  
Who is identified before me by 70 Sangli  
Shri Amit M. Patil Adv.  
whom personally known. 70 Sangli

*R. Kore*  
20/1/2025  
ADV. A. R. KORE  
NOTARY REG. NO. 15412,  
GOVT. OF INDIA  
Kaveri Appt., Saraswatinagar  
SANGLI - 416 416 (M.S.)



# MAHARASHTRA POLLUTION CONTROL BOARD

Tel: 24010437/24020781/24014701		Kalpataru Point, 2nd - 4th Floor
Fax: 24024068 / 24023515		Opp. Cine Planet Cinema,
Website: <a href="http://mpcb.gov.in">http://mpcb.gov.in</a>		Near Sion Circle, Sion (E)
E-mail: ast@mpcb.gov.in		Mumbai-400 022.

No. BO/MPCB/AS(T)/Circular/B- 220712FTS0047

Date: 12/07/2022

## CIRCULAR

**Sub: Provision of penal fess for occupiers violating combine consent regime prescribed under Air/Water Act – reg.**

**Ref: Minutes of 178<sup>th</sup> Board Meeting held on 24/02/2022.**

It is mandatory on the part of industries/entrepreneurs to obtain Consent to Establish and Operate under section 25/26 of the Water (Prevention & Control of Pollution Act) 1974, under section 21 of Air (Prevention & Control of Pollution) Act 1981 and Authorization under Hazardous & Other Waste (Management & Transboundary Movement) Rule 2016. However, it has been noticed that, often industries were found to be violating the aforesaid provisions and the violations noticed are as below:

1. To take effective steps towards establishment of project/unit without obtaining Consent to Establish from the Board
2. To take effective steps without revalidating Consent to Establish from the Board.
3. To start Commercial production/to hand over occupancy without obtaining Consent to Operate from the Board
4. To carry out expansion activity and applying directly for Consent to Operate without obtaining Consent to Establish of the Board.
5. To operate the activity without valid consent to operate of the Board and applying after lapse of validity period.
6. To store and disposal of Hazardous Waste not consistent with provisions of rules

The MPC Board has published Enforcement Policy for issuance of directions on account of degree of violation by imposing/forfeiting proportionate Bank Guarantee. The matter of such violations was discussed during Consent Appraisal Committee/Consent Committee and was decided to formulate the deterrent policy towards above mentioned violations and such other violations. Hence, it is important to discourage the defaulting industries by adopting "Polluter Pays" principal by imposing appropriate cost for violation of provisions of Environment enactments.

The MPC Board in its 178<sup>th</sup> Board meeting held on 24/02/2022 vide item No. 12 has considered to impose appropriate penal fees towards violation of Environmental enactments, the penal fees shall be imposed as below:

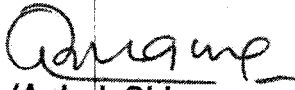
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Sr. No.	Violation	Cost of Violation
01	Taking effective steps towards establishment of project/unit prior to obtain Consent to Establish from the Board	<b>Red Category:</b> 5 times of one term consent fee X no. of years of violation*
02	Taking effective steps without revalidating Consent to Establish of the Board.	
03	<b>Industry:</b> Starting Commercial production prior to obtain Consent to Operate of the Board.	<b>Orange Category:</b> 3 times of one term consent fee X no. of years of violation*
	<b>Infrastructure Project:</b> Handing over possession prior to obtaining Consent to Operate of the Board and Occupancy certificate from Local Body.	
04	Operating the industry/activity without valid consent to operate of the Board and applying after lapse of validity period.	<b>Green Category:</b> 1 time of one term consent fee X no. of years of violation*

\* Calculations of number of years shall be calculated on the basis of number of days of non-compliance.

The penal fees amount to be paid by PP through online e-payment gateway.

All the Officers of the Board should implement this circular scrupulously without fail.

  
(Ashok Shingare, IAS)  
Member Secretary


Copy submitted to: The Hon'ble Chairman, MPC Board Mumbai- for favour of information

Copy to:

1. The Assistant Secretary (Tech)/Joint Director (APC)/Joint Director (WPC)/Principal Scientific Officer/Regional Officer (HQ) MPC Board Mumbai
2. Law Officer/Statistical Officer, MPC Board Mumbai

Copy to:

1. All Regional Officer, MPC Board
2. All Sub-Regional Officer, MPC Board
3. EIC- He is directed to place the circular on Board's website.

MAHARASHTRA POLLUTION CONTROL BOARD		
Phone :	24010437/24020781 /24037124/24035273	
Fax :	24044532/24024068/24023516	
Email :	jdwater@mpcb.gov.in	
Visit At :	<a href="http://mpcb.gov.in">http://mpcb.gov.in</a>	
		Kalpataru Point, 3rd & 4th floor, Sion-
		Matunga Scheme Road No. 8, Opp. Cine Planet Cinema, Near Sion Circle, Sion (E), Mumbai - 400 022

No.: MPCB/JD(WPC)/Circular/B-230329 FTS 0211

Date: 29/03/2023

**CIRCULAR**

**Sub:** COVID Pandemic-Lockdown period exempted from submission of application for consent/Authorization.

- Ref:** 1. MoEF&CC, Gol Notification dated 18.01.2021.  
2. Govt of Maharashtra Order No. DMU/2020/CR.92/DisM-1 dated 29/04/2021.  
3. Board's Circular No. MPCB/AST/Circular/TB-210507-FTS-0018 dated 07.05.2021.  
4. 179<sup>th</sup> Board Meeting held on 11.01.2023.

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It is mandatory on a part of every industry/entrepreneur/establishment to obtain valid Consent to Establish/Operate and Authorization from the Maharashtra Pollution Control Board under section 25/26 of The Water (Prevention & Control of Pollution) Act, 1974, under section 21 of The Air (Prevention & Control of Pollution) Act, 1981 and under rule 5 of The Hazardous & Other Waste (Management and Transboundary movement) Rule, 2016, combined consent and authorization under The Bio-Medical Waste Management Rule, 2016 and The Solid Waste Management Rule, 2016 and carry out commercial production activity by paying requisite consent/Authorization fees as decided by the Government/Board.

Government of Maharashtra has issued order during Pandemic period for imposition of restrictions. Consequent to outbreak of CORONA Virus (COVID-19) & lockdown situation, Maharashtra Pollution Control Board in the public interest had extended the validity of consent to establish /operate /renewal/ Authorisation/ CCAs by 31.07.2020 vide Board's Circular dated 31.03.2020, by 30.09.2020 vide Board's Circular dated 28.04.2020 and by 31.10.2021 vide Board's Circular dated 07.05.2021.

MoEF&CC, Gol vide Notification dated 18<sup>th</sup> Jan, 2021 has passed the order- "9A. Notwithstanding anything contained in this notification, the period from the 1st April, 2020 to the

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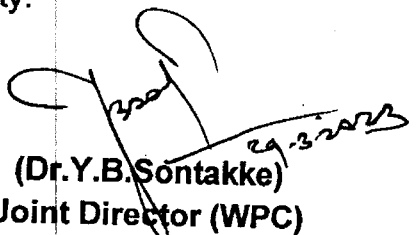
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31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Prior Environmental Clearances granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the Environmental Clearance granted shall be treated as valid."

The Board has issued Circular dated 12/7/2022 regarding provision of penal fees for occupiers violating combine consent regime prescribed under Air/Water Act.

Now therefore, the period from 1<sup>st</sup> April, 2020 to 31<sup>st</sup> March, 2021 is exempted for submission of application for consent/Authorization. For this period only regular consent fees will be charged.

This circular is issued with approval of competent authority.

  
(Dr. Y. B. Sontakke)  
Joint Director (WPC)

**Copy Submitted for information to:**

1. The Hon'ble Principal Secretary, Dept. of Env. & CC, GoM, Mumbai.
2. The Hon'ble Chairman, MPC Board, Mumbai.
3. The Member Secretary, MPC Board, Mumbai.

**Copy to:**

1. Joint Director (WPC)/Joint Director (APC)/Principal Scientific Officer/Asst. Secretary (Tech) /RO(HQ)/ RO(BMW) – MPC Board, Mumbai.
2. All Regional Officers, MPC Board.
3. All Sub-Regional Officer, MPC Board.