



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

ORIGINAL APPLICATION NO. 31/2023(WZ)

IN THE MATTER OF: -

PRASAD M. MULYE

APPLICANT

VERSUS

M/S BHARAT SERUMS AND  
VACCINES LTD. & ORS.

RESPONDENT(S)

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 6,**  
**CENTRAL POLLUTION CONTROL BOARD (CPCB)**

I, Bharat Kumar Sharma, S/o Shri. D.P Vishwakarma, aged 50 years, working as Scientist 'F' and Regional Director in the Regional Directorate, Central Pollution Control Board, Pune, do hereby solemnly affirm and declare as under:

That I, in the capacity of Scientist 'F' of the Central Pollution Control Board (hereinafter referred as CPCB) am fully conversant with the facts of the case and hence, competent to swear this reply affidavit on behalf of the Respondent No. 6 (CPCB).

1. That the averments made under the heading "Facts of the case" in Paras 1 to 11 are about details of the Applicant, alleged observations by the Applicant w.r.t.

management of leachate & pollution to Chikhholi Dam by the Respondent no. 1 i.e. M/s Bharat Serums and Vaccines Ltd., details of the Respondent no. 1 (hereinafter referred as R-1) & operating without valid consent to operate. Further averments are the details of Respondents Nos. 2 to 7. The same are matter of records and need no comments from this Answering Respondent.

2. That the averments made under the heading "Lack of Consent at the Ambernath Plant" in Paras 12 and 13 are about Respondent No. 1 who operated illegally without Consent to Operate (CTO) for about 6.5 months and not applied timely for renewal of the CTO before its expiry. It is humbly submitted that the avertments pertains to Respondent no. 2 i.e. MPCB (hereinafter referred as R-2) and may suitably answered by by R-2 and violations, if any, under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.
3. That the averments under the heading "Incorrect Industry Categorization" in Paras 14 to 18 are about incorrect categorization of the industry of R-2 by the SPCB, disposal of treated effluent for gardening purpose & concern about the location of industry which is situated close to the Chikhholi dam, copy of Closure order dated 13/06/2017 issued by R-2, working group formed by the CPCB having developed categorization of industries based on the concept of Pollution Index, and the Applicant stating that it is mandatory by the R-1 to apply for a 'Joint Consent i.e. normal Consent and Bio-medical Waste Consent, which automatically attracts "Red" category Consent.

It is humbly submitted that vide letter dated 07/03/2016, CPCB issued modified directions to the respective Chairman of all the State Pollution Control Boards/Pollution Control Committees under Section 18(1)(b) of the Water (Prevention and Control of Pollution) Act 1974, and the Air (Prevention and Control of Pollution) Act 1981, regarding Harmonization of Classification of Industrial Sectors under Red/Orange/Green/White Categories. Final Document on Revised Classification of Industrial Sectors under Red, Orange, Green and White Categories was also attached therein for adopting by the State Pollution Control Boards (SPCBs)/Pollution Control Committees (PCCs). It was also





directed that any further addition of any new or left-over industrial sector and their categorization which is not listed in the revised list of red, orange, green and white industry sectors, shall be done at the level of concern SPCB/PCC following revised criteria & guidelines as detailed in the attached document and no concurrence of CPCB shall normally be required. Copy of the said direction and Final Document on Revised Classification of Industrial Sectors under Red, Orange, Green and White Categories are available at <https://cpcb.nic.in/openpdffile.php?id=TGF0ZXN0RmlsZS9MYXRlc3RfMTE4X0ZpbmFsX0RpcmVjdGlvb3RlbnMucGRm>. As per the aforesaid final document, industrial sector viz. Pharmaceutical activities and Pharmaceutical formulation and for R & D purpose (For sustained release/ extended release of drugs only and not for commercial purpose) have been categorised as Red and Orange at Final Sl. No. 58 and Final Sl. No. under Table G-2 (Final List of Red Category of Industrial Sectors) and Table G-3 (Final List of Orange Category of Industrial Sectors) respectively. Further, in case of the Pharmaceutical formulation and for R & D purpose (For sustained release/extended release of drugs only and not for commercial purpose), it has been mentioned in the remarks column that R&D activities are to be shifted to Red category. Thus, depending upon industrial sector, R-2 is required to categorise under Red or Orange or other category, as applicable.

4. That the averments under the heading "Proximity to the Chikhholi Dam" in Paras 19 to 21 are about officials of R-2 not checking type of activities carried out by R-1, not obtained Environmental Clearance & other licenses to manufacture API drugs, disposal of dead animals near the Chikhholi dam after testing on animals. Further averments are about the type of manufacturing activities being carried-out by the R-1 referring joint inspection report of Food & Drugs Administration Department dated 24/12/2021; construction of animal house within 200 m from the high flood line at Plot No. K – 27/1 under Survey no. 25/2 against the Circular dated 08/03/2018 of Irrigation Department; Government of Maharashtra, about no construction upto 200 metres from the high flood line of Chikhholi Water Dam, Ambernath, which is used for drinking purposes, and; extremely harmful towards the health of the citizens of Ambernath being the animal house very close to drinking water source referring letter by Executive

Engineer, Thane, Irrigation Department of Kalwa to MIDC Arnbarnath's Executive Engineer dated 13/03/2018. It is humbly submitted that these are matter of records and violations, if any under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.

5. That the averments under the heading "Violations at the R&D unit" in Paras 22 to 26 are about the Applicant having filed various applications under the Right To Information Act, 2005; order 21/11/2022 passed by the First Appellate Authority under the Right To Information Act, 2005; R-1 not obtained required licenses from the Directorate of Industrial Safety & Health, and; incorrect listing of category of activity by R-1 to the Maharashtra Industrial Development Corporation and show cause notice issued to the owner of the property by MIDC. Further averments are about grant of "Consent to Operate" under "Red" category under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981 and "Authorization" under Rule 5 of the Hazardous Wastes Rules, 2008 for the R&D unit (at Plot No. K - 10, Kalwa Industrial Area, Airoli, Navi Mumbai) of R-1 by R-2. The same are matter of records and need no comments from this Answering Respondent. Further, it is humbly submitted that violations, if any under the concerned Acts/Rules are to be dealt by the respective agency as per provisions stipulated under such Acts/Rules.
6. That the averments under the heading "GROUNDS" (Paras A to F) are various grounds for filing the present Original Application as submitted by the Applicant. It is humbly submitted that the comments/reply have already mentioned/submitted in the above paragraphs of this affidavit and hence invite no further comments from this Answering Respondent.
7. That the averments under the heading "LIMITATION" (a to c), under the heading "INTERIM PRAYER" (1 and 2) and under the heading "PRAYER" (I to VI) are about the period of limitation for filing the present Original





Application and various prayers as submitted by the Applicant, and hence invite no comments from this Answering Respondent.

That in light of the above submissions, it is respectfully prayed that this Answering Respondent No. 6 i.e. CPCB shall abide by any order or directions passed by this Hon'ble Tribunal.



**भरत कुमार शर्मा / Bharat Kumar Sharma**

क्षेत्रीय निदेशक / Regional Director

**केंद्रीय प्रदूषण नियंत्रण बोर्ड**

**Central Pollution Control Board**

क्षेत्रीय निदेशालय, पुणे / Regional Directorate, Pune

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार

M/o Env't. Forest & Climate Change, Gov't. of India

सर्वे नं. ११०, हीराबाई धनकुडे हॉल, बाणेर रोड, बाणेर, पुणे - 411045  
Sr. No. 110, Hirabai Dhankude Hall, Baner Road, Baner, Pune-411045

DEPONENT

### VERIFICATION

Verified at Pune on this ..... day of July, 2023 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

**भरत कुमार शर्मा / Bharat Kumar Sharma**

क्षेत्रीय निदेशक / Regional Director

**केंद्रीय प्रदूषण नियंत्रण बोर्ड**

**Central Pollution Control Board**

क्षेत्रीय निदेशालय, पुणे / Regional Directorate, Pune

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DEPONENT – Respondent No. 6

**COUNSEL for Respondent No. 6**

**ATTESTED**

**MANISHA SAMEER CHITNIS**  
NOTARY  
GOVERNMENT OF INDIA

**28 JUL 2023**

