

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

ORIGINAL APPLICATION NO. 82 OF 2022 (WZ)

IN THE MATTER OF: -

RAHUL POPAT PAWAR

APPLICANT

VERSUS

MOEF&CC & ORS.

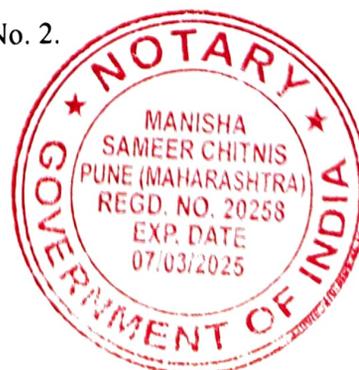
RESPONDENTS

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2,
CENTRAL POLLUTION CONTROL BOARD (CPCB)**

I, Bharat Kumar Sharma, S/o Shri. D.P Vishwakarma, aged 49 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. 2 (CPCB).

1. That the averments made under Paras A and B (1 to 6) are about the information of the Applicant and the Respondents respectively which is matter of record and needs no comments from this Answering Respondent No. 2.
2. That the averments made in the Para 1 under Para C, "FACTUAL MATRIX IN BRIEF" are about details of the Applicant, which is matter of records and hence needs no comments from this Answering Respondent No. 2.





3. That the averments made in Paras 2 to 7 under Para C, "FACTUAL MATRIX IN BRIEF" are about usage of artificial flowers for decoration purposes, increase in import of artificial flowers, the artificial flowers being made of polythene and hazardous synthetic dyes, heavy usage of artificial flowers in the state of Maharashtra, inappropriate disposal of artificial flowers causing environmental degradation. Further, averments are about the applicant relying on the various news articles about the adverse effects of excess usage of the artificial flowers and its adverse effects on the environment and human health.

It is humbly submitted that Rule-6 of the Plastic Waste Management Rules, 2016 stipulates the responsibilities of local body for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers.

Further Rule-7 of the PWM Rules, 2016 stipulates the responsibilities of Gram Panchayat to set-up, operationalize and co-ordinate for waste management in the rural area under their control.

4. The averments made in Para 8 (Para C)are about the Plastic Waste Management Rules framed by Respondent No.1 (MOEF&CC) and notice dated 08/08/2022 issued by Respondent No. 3 (MPCB) for prohibiting the use of production, commerce, stocking, distribution, sale & use of single use plastic items.

It is humbly submitted as under:

As per rule 4 of Plastic Waste Management Rules, 2016 (as amended), following items are banned

The manufacture, import, stocking, distribution, sale and use of following single use plastic, including polystyrene and expanded polystyrene, commodities shall be prohibited with effect from the 1st July, 2022:-



- (a) Ear buds with plastic sticks, plastic sticks for balloons, plastic flags, candy sticks, ice-cream sticks, polystyrene [Thermocol] for decoration;
- (b) Plates, cups, glasses, cutlery such as forks, spoons, knives, straw, trays, wrapping or packing films around sweet boxes, invitation cards, and cigarette packets, plastic or PVC banners less than 100 micron, stirrers.
- (c) **Carry Bag & Plastic Sheet** : As Per rule 4(1)c of Plastic Waste Management (Amended) Rules, 2022 Carry bag made of virgin or recycled plastic, shall not be less than “seventy-five microns in thickness with effect from the 30th September, 2021 and one hundred and twenty (120) microns in thickness with effect from the 31st December, 2022.
- (d) **Plastic Sheets:** As per rule 4(1)d of Plastic Waste Management (Amended) Rules, 2022: Plastic sheet or like, which is not an integral part of multi-layered packaging and cover made of plastic sheet used for packaging, wrapping the commodity shall not be less than fifty microns in thickness except as specified by the Central Government.
- (e) **Non-woven bags:** As per Rule 4(1)(j) non-woven plastic carry bag shall not be less than 60 Gram Per Square Meter (GSM) with effect from the 30th September, 2021.

The above provisions are not applicable to commodities made of compostable plastic.

It may be noted that artificial flowers are not covered under the list of banned Single Use Plastic items.

Furthermore as per rule 5 of PWM Rules, 2016, the plastic waste management by urban local bodies in their respective jurisdiction shall be as under:

- (a) Plastic waste, which can be recycled, shall be channelized to registered plastic waste recycler and recycling of plastic shall conform to the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics, as amended from time to time.
- (b) Local bodies shall encourage the use of plastic waste (preferably the plastic waste which cannot be further recycled) for road construction as per Indian Road Congress guidelines or energy recovery or waste to oil etc. The standards and pollution control norms specified by the prescribed authority for these technologies shall be complied with.



- (c) Thermo set plastic waste shall be processed and disposed off as per the guidelines issued from time to time by the Central Pollution Control Board.
- (d) The inert from recycling or processing facilities of plastic waste shall be disposed of in compliance with the Solid Waste Management Rules, 2016 or as amended from time to time.

Furthermore as per rules of 6, 7, 8, & 14 of PWM Rules, 2016 (as amended), certain responsibilities are given to various entities are as follows:

Rule 6: Responsibility of local body.-

- 1) *Every local body shall be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers.*
- 2) *The local body shall be responsible for setting up, operationalisation and co-ordination of the waste management system and for performing the associated functions, namely:-*
 - (a) *Ensuring segregation, collection, storage, transportation, processing and disposal of plastic waste;*
 - (b) *Ensuring that no damage is caused to the environment during this process;*
 - (c) *Ensuring channelization of recyclable plastic waste fraction to recyclers;*
 - (d) *Ensuring processing and disposal on non-recyclable fraction of plastic waste in accordance with the guidelines issued by the Central Pollution Control Board;*
 - (e) *Creating awareness among all stakeholders about their responsibilities;*
 - (f) *Engaging civil societies or groups working with waste pickers; and*
 - (g) *Ensuring that open burning of plastic waste does not take place.*
- 3) *The local body for setting up of system for plastic waste management shall seek assistance of producers and such system shall be set up within one year from the date of final publication of these rules in the Official Gazette of India.*
- 4) *The local body to frame bye-laws incorporating the provisions of these rules.*



Rule 7: Responsibility of Gram Panchayat.-

(1) Every gram panchayat either on its own or by engaging an agency shall set up, operationalize and co-ordinate for waste management in the rural area under their control and for performing the associated functions, namely,-

- (a) ensuring segregation, collection, storage, transportation, plastic waste and channelization of recyclable plastic waste fraction to recyclers having valid registration; ensuring that no damage is caused to the environment during this process;
- (b) creating awareness among all stakeholders about their responsibilities; and
- (c) ensuring that open burning of plastic waste does not take place

Rule 8: Responsibility of waste generator.-

(1) The waste generator shall.-

(a) Take steps to minimize generation of plastic waste and segregate plastic waste at source in accordance with the Solid Waste Management Rules, 2016 or as amended from time to time.

(b) not litter the plastic waste and ensure segregated storage of waste at source and handover segregated waste to urban local body or gram panchayat or agencies appointed by them or registered waste pickers', registered recyclers or waste collection agencies;

(2) All institutional generators of plastic waste, shall segregate and store the waste generated by them in accordance with the Municipal Solid Waste (Management and Handling) Rules, 2016 and handover segregated wastes to authorized waste processing or disposal facilities or deposition centers either on its own or through the authorized waste collection agency.

(3) All waste generators shall pay such user fee or charge as may be specified in the bye-laws of the local bodies for plastic waste management such as waste collection or operation of the facility thereof, etc.;

(4) Every person responsible for organizing an event in open space, which involves

service of food stuff in plastic or multilayered packaging shall segregate and manage the waste generated during such events in accordance with the Municipal Solid Waste (Management and Handling) Rules, 2016.

Rule 14: Responsibility of retailers and street vendors-

(1) Retailers or street vendors shall not sell or provide commodities to consumer in carry bags or plastic sheet or multilayered packaging, which are not manufactured and labelled or marked, as per prescribed under these rules.

(2) Every retailers or street vendors selling or providing commodities in, plastic carry bags or multilayered packaging or plastic sheets or like or covers made of plastic sheets which are not manufactured or labelled or marked in accordance with these rules shall be liable to pay such fines as specified under the bye-laws of the local bodies.

5. The averments made in Para 9 (Para C) are about impact on the environment caused by the artificial flowers. It is humbly submitted that for proper management of plastic & solid waste, The Ministry of Environment, Forest & Climate Change, Govt. of India, has notified the following Rules:
 - i. Plastic Waste Management Rules, 2016 (as Amended)
 - ii. Solid Waste Management Rules, 2016
6. The averments made in Para 10 (Para C) are about promotion of use of natural flowers, and this invites no comments from this Answering Respondent.
7. The averments made in Para 11 are about grievance of applicant with various authorities through email dated 03/09/2022 highlighting usage & disposal of artificial flowers. This Answering Respondent humbly submit that:

As per rule 5 of PWM Rules, 2016, the plastic waste management by urban local bodies in their respective jurisdiction shall be as under:





(a) Plastic waste, which can be recycled, shall be channelized to registered plastic waste recycler and recycling of plastic shall conform to the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics, as amended from time to time.

(b) Local bodies shall encourage the use of plastic waste (preferably the plastic waste which cannot be further recycled) for road construction as per Indian Road Congress guidelines or energy recovery or waste to oil etc. The standards and pollution control norms specified by the prescribed authority for these technologies shall be complied with.

(c) Thermo set plastic waste shall be processed and disposed off as per the guidelines issued from time to time by the Central Pollution Control Board.

(d) The inert from recycling or processing facilities of plastic waste shall be disposed of in compliance with the Solid Waste Management Rules, 2016 or as amended from time to time.

8. The averments made in Para 12 are about test report dated 08/09/2022 obtained by the Applicant from Government Approved Laboratory of such artificial flowers. This Answering Respondent submits that the Plastic Waste Management Rules restrict the thickness of plastic sheet used in packaging of commodities to 50 microns. The thickness criteria is not applicable as such to the commodities.
9. The averments made in Para 13 are about Applicant approaching the Hon'ble Tribunal under the Precautionary Principle and Polluters Pay Principle, is a matter of court record, and hence no comments from this Answering Respondent.
10. That the averments made under Para 13-D (a to e) under the heading "GROUNDS FOR APPLICATION" are about the various grounds submitted by the Applicant for filing of the present Original Application for which reply submitted by this Respondent in the above paras of this reply affidavit may be referred to.

11. That the averments made in Paras 14 to 17 are about the merits of the case as stated by the Applicant, the Applicant not having filed any other Appeal, Application, Complaint and Petition in any other court raising the same issue, and the Applicant not claiming any compensation against the Respondents in the present matter. The same are matter of records and invites no comments from this Answering Respondent.

12. That the averments made in Para "E" under the heading 'Limitation' are about the cause of action and period of limitation to file the present Original Application, and hence needs no comments from this Answering Respondent.

That in light of the above submissions, it is respectfully prayed that this Answering Respondent No. 2 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
 मंडल संख-1, संजीवनी निसर्ग, बालेवाडी, पुणे-411045
 Sanjivani Nagar, Balewadi, Pune-411045

DEPONENT

VERIFICATION

Verified at Pune on this day of December, 2022 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.

Counsel for Respondent No. 2



DEPONENT - Respondent No. 2

Noted & Registered

At.Sr.No..1021/2022.

BEFORE ME

MANISHA SAMEER CHITNIS
 NOTARY
 GOVERNMENT OF INDIA

27 DEC 2022

