



Regd. No.: 39
Date: 17/09/2020

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 32/2020 (WZ)

IN THE MATTER OF: -

KANTHA VIBHAG YUVA
KOLI SAMAJ

APPLICANT(S)

VERSUS

GUJARAT POLLUTION
CONTROL BOARD & ORS.

RESPONDENT(S)

Reply Affidavit on behalf of Respondent No. 7 Central Pollution
Control Board (CPCB)

I, Praseon Gargava s/o Late Ramesh Gargava, aged 48 year,
Regional Director, Central Pollution Control Board, Regional
Directorate, Vadodara, do hereby solemnly affirm and declare as
under:

1. That, I in capacity of Scientist 'E' of the Central Pollution Control Board (CPCB), am fully conversant with the facts of the case and hence, competent to swear this reply affidavit on behalf of the Respondent No. 7 (CPCB).
2. That para 1 is about establishment, profile, nature of activities carried-out, registration certificate of the applicant and about grounds on which application is filed against respondent No. 8 and does not require any comment by this answering respondent No. 7.



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3. That para 2 is about the chronology of events that had took place since commissioning of the unit of respondent No. 8 from 2014 to 2019. Also, procedural failure by the respondent No. 8 to take mandatory statutory permissions from concerned regulatory agencies. The Applicant mentions that the respondent No. 8 had carried-out production of polyester resin @ 789 MT/Month illegally without obtaining consent from respondent No. 1 and subsequent discharge of industrial effluent, acidic wastewater into storm water drain as well as into Mindhola Creek. Further supplements the copy of inspection report dated 12.07.2019 by the respondent No. 1, which endorses the facts w.r.t. mandatory statutory procedural lapses by the respondent No. 8.

It is respectfully submitted that the respondent No. 1 (GPCB) is the representing organisation responsible for pollution control enforcement i.e. grant/refusal of Consent to Establish & Consent to Operate to any industry or activity within their jurisdiction. Further, the respondent No. 2 (SEIAA) is the representing agency responsible for grant or rejection of Environment Clearance to any industry or activity which falls under Category B1 or B2 within their jurisdiction and **does not require any comment by this answering respondent No. 7 (CPCB).**

4. That para 3 is about brief outcome of observations & findings from even dated inspections carried-out by the respondent No. 1 at the premises of respondent No.8, which endorses the illegal establishment and operation of the unit of respondent No. 8.

It is respectfully submitted that the respondent No. 1 (GPCB) is the representing organisation responsible for pollution control enforcement i.e. grant/refusal of Consent to Establish & Consent to Operate to any industry or activity within their jurisdiction and **does not require any comment by this answering respondent No. 7 (CPCB).**



5. That para 4 is about the grant of Consent to Establish by the respondent No. 1 (GPCB) on vide dated 07.10.2015 to the respondent No. 8 even though cognizance of offence was done by the respondent No. 8 in respect of mandatory statutory procedural lapses. The applicant mentions that by supplementing the copy of inspection report dated 09.07.2019 of the respondent No.1(GPCB), which endorses the facts w.r.t. commencement of production activity by the respondent No. 8 before the grant of Consent to Establish and apprehension regarding the discharge of effluent into the environment.

It is respectfully submitted that the respondent No. 1 (GPCB) is the representing organisation responsible for pollution control enforcement i.e. grant/refusal of Consent to Establish & Consent to Operate to any industry or activity within their jurisdiction. Also, the procedure being adopted by the respondent No. 1 (GPCB) to deal with the violation or post facto cases i.e. any industry or activity, which had been established civil structure, plant machinery and commenced production activity without obtaining mandatory Consent to Establish & Consent to Operate from the respondent No. 1 (GPCB) and **does not require any comment by this answering respondent No. 7 (CPCB).**

6. That para 5 is about the conditions outlined in the Consent to Establish vide dated 0710.2015 issued by the respondent No.1 (GPCB) to the respondent No. 8 under the provisions of The Water (Prevention and Control of Pollution) Act, 1974 and The Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008. The applicant mentions about the post facto Consent to Establish issued by the respondent No.1 to the respondent No. 8.

It is respectfully submitted that the respondent No. 1 (GPCB) is the representing organisation responsible for pollution control enforcement i.e. grant/refusal of Consent to Establish & Consent to Operate to any industry or activity within their jurisdiction.





Also, the procedure being adopted by the respondent No. 1 to deal with the violation or post facto cases i.e. any industry or activity, which had been established civil structure, plant machinery and commenced production activity without obtaining mandatory Consent to Establish & Consent to Operate from the respondent No. 1 (GPCB) and **does not require any comment by this answering respondent No. 7 (CPCB).**

7. That the para 6 is about the violation by the respondent No. 8 in respect of all specific conditions outlined in the post facto Consent to Establish issued by the respondent No. 1.

It is respectfully submitted that the respondent No. 1 (GPCB) is the representing organisation responsible for pollution control enforcement i.e. grant/refusal of Consent to Establish & Consent to Operate to any industry or activity within their jurisdiction. Further, the respondent No. 2 (SEIAA) is the representing agency responsible for grant or rejection of Environment Clearance to any industry or activity which falls under Category B1 or B2 within their jurisdiction and **does not require any comment by this answering respondent No. 7(CPCB).**

8. That the para 7 is about the brief observations & findings of the inspection vide even dated 09.07.2019, 10.07.2019 and test report dated 22.07.2019 carried-out by the respondent No. 1 (GPCB) at the premises of respondent No.8, which endorses the violation of environmental laws in respect of mandatory Environment Clearance under EIA Notification, 2006, CCA, membership from common environmental infrastructure facility and disposal of untreated effluent into Mindhola Creek.

It is respectfully submitted that the observations & findings are from the inspection reports and test report of respondent No. 1 (GPCB) which was carried-out at the premises of respondent No.8 Further, it is respectfully submitted that the test report mentions that the sample was collected from open surface drain,



passing adjoining the unit. Hence, at this juncture it is not clear that whether the open surface drain was receiving effluent from respondent No. 8 or from other industries or point/non-point sources from GIDC Sachin. Hence, **does not require any comment by this answering respondent No. 7 (CPCB).**

9. That the para 8 is about the action taken i.e. issuance of closure directions dated 23.07.2019 to the respondent No. 8 by the respondent No. 1 (GPCB) as per the statutory provisions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 respectively. Hence **does not require any comment by this answering respondent No. 7 (CPCB).**
10. That the para 9 is about the imposition of environment damage compensation dated 23.07.2019 to the respondent No. 8 by the respondent No. 1 (GPCB) for the violation of environmental laws for 5 years. The applicant mentions that environment damage compensation has been assessed without assessment of environmental damage caused to the coastal environment and ecology of the Mindhola Creek system.

It is respectfully submitted that respondent No. 7 (CPCB) had prepared the formula for calculating environmental compensation (including non-compliances of standards/violation of directions) in the matter before Hon'ble NGT vide O.A. No. 593/2017 (Paryavaran Suraksha Samiti & Anr. Vs Union of India & Ors.) order dated 19.02.2019. The base formula as per para 6 of the said order for calculating the environmental compensation (EC) is given below.

$$EC = (PI \times N \times R \times S \times LF)$$

Where,

EC is Environmental Compensation in `

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC



$S = \text{Factor for scale of operation}$

$LF = \text{Location factor}$

- At this juncture it is difficult to arrive at the conclusion that the coastal environment and ecology of the Mindhola Creek system has been damaged due to discharge of untreated effluent only from respondent No. 8; as Mindhola River receives untreated domestic wastewater from Kanakpur-Kansad, Pardi area and Sachin GIDC through Unn Khadi as well as treated industrial effluent from common effluent treatment plants (CETPs) viz. M/s Sachin Infra Environment Ltd., (textile cluster), M/s Globe Enviro Care Ltd., (chemical cluster) through Unn Khadi. Also, treated effluent from two industries viz. M/s Colortex Industries Pvt. Ltd., and M/s CTX Lifescience Pvt. Ltd., through Unn Khadi. The individual outlets of treated effluent from two CETPs and two industries are later commonly conveyed in a closed conveyance system (app. 5 Km length) and discharged into Unn Khadi, downstream of GIDC Sachin. The Unn Khadi later confluences with the Mindhola River.

Further, Mindhola River receives treated industrial effluent from two CETPs viz. M/s Gujarat Eco Textile Park (textile cluster) and M/s New Palsana Industrial Co-Op Soc. Ltd., (textile cluster) through Baleshwar Khadi. The Baleshwar Khadi later confluences with the Mindhola River (upstream of Unn Khadi confluence point).

It is worth to mention that the action plan is devised for Mindhola River and is separately being dealt by the Hon'ble NGT vide OA no. 673 of 2018 ("More River Stretches are now Critically Polluted). Wherein, River Rejuvenation Committee has been set up for the compliance of Hon'ble NGT directions and formulation, implementation of action plans for remediation and restoration of polluted river stretches.



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11. That the para 10 is about the complaint dated 30.08.2019 made by the applicant to respondent No. 1(GPCB) regarding the issue of toxic effluent into the natural system of Mindhola Creek. The applicant also mentions about the mandatory statutory procedural lapses by the respondent No. 8 and failure to comply with the conditions outlined in the Consent to Establish vide dated 0710.2015 issued by the respondent No.1 (GPCB) to the respondent No. 8 under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008. Also, the applicant mentions about the observations & findings of the inspection vide 12.07.2019 and test report dated 22.07.2019 carried-out by the respondent No. 1 at the premises of respondent No.8.

It is respectfully submitted that the comments are already been answered in above paras of this affidavit by this answering respondent No. 7 (CPCB).

12. That the para 11 is about the action taken i.e. issuance of show cause notice dated 19.10.2019 to the respondent No. 8 by the respondent No. 1(GPCB) as per the statutory provisions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 respectively. Hence **does not require any comment by this answering respondent No. 7 (CPCB).**
13. That the para 12 is about the letter addressed by the applicant to the River Rejuvenation Committee constituted on the orders of Hon'ble NGT in OA no. 673 of 2018 ("More River Stretches are now Critically Polluted). and the applicant mentions that environment damage compensation has been assessed without assessment of environmental damage caused to the coastal environment and ecology of the Mindhola Creek system.

It is respectfully submitted that the comments are already been answered in above para 10 of this affidavit by this answering respondent No. 7 (CPCB).

14. That the para 13 is about the coastal zone management plan of Gujarat and its salient features about location of unit of respondent No. 8, submitted by the applicant.

It is respectfully submitted that information provided by the applicant are pertaining to Respondent No. 4 (GCZMA) and **does not require any comment by this answering respondent No. 7 (CPCB).**

15. That para 14 is about the Hon'ble Court judgment and Hon'ble NGT order; regarding the guidelines to determine the scale of compensation from polluting units.

It is respectfully submitted that the comments are already been answered in above para 10 of this affidavit by this answering respondent No. 7 (CPCB).

16. That para 15 is about the Hon'ble NGT directions in the OA no. 673/2018 and River Action Plan formulated by the River Rejuvenation Committee for the Mindhola River.

The action plan for Mindhola River is separately being dealt in the Hon'ble NGT OA no. 673 of 2018 ("More River Stretches are now Critically Polluted), wherein, River Rejuvenation Committee has been set up for the compliance of Hon'ble NGT directions and formulation, implementation of action plans for remediation and restoration of polluted river stretches. Hence **does not require any comment by this answering respondent No. 7 (CPCB).**

17. That in para 15 is about Grounds (A to G) for filling the application by the applicant which were already mentioned



/commented in above paras of this affidavit by this answering respondent No. 7(CPCB).

18. That in Para 16, it is stated by the applicant that the application was filed within limitation and **does not require any comment by this answering respondent No. 7(CPCB).**
19. That para 17 is about the prayer (a to g) by the applicant and **does not require any comment by this answering respondent No. 7(CPCB).**

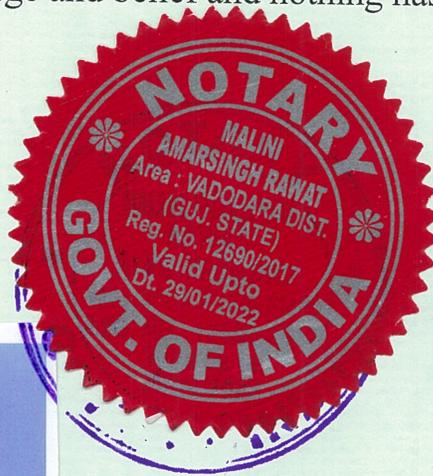
PRAYER

That in view of the above submissions, it is respectfully submitted that this answering Respondent No.7, CPCB shall abide by any order or directions passed by this Hon'ble Tribunal.

P. Gargava
DEPONENT

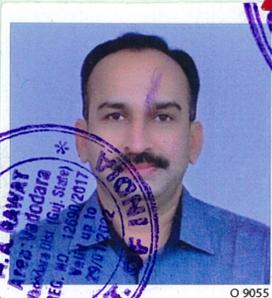
VERIFICATION

Verified at Vadodara on this 17th day of September, 2020 that the contents of the above affidavit are correct to the best of my knowledge and belief and nothing has been concealed therein.



P. Gargava
DEPONENT

प्रसून गार्गव / PRASOON GARGAVA
क्षेत्रीय निदेशक / REGIONAL DIRECTOR
केन्द्रीय प्रदूषण नियंत्रण बोर्ड / Central Pollution Control Board
(पर्यावरण, वन एवं ज.स. मंत्रालय, भारत सरकार)
(Ministry of Environment, Forest & Climate Change, Govt. of India)
क्षेत्रीय निदेशालय (पश्चिम), वडोदरा-390023.
Regional Directorate (West), Vadodara-390023.



Solemnly Affirmed / Declared
Sworn Before me by *Prasoon Gargava*

Malini 17/09/2020
MALINI AMARSINGH RAWAT
NOTARY, (Govt. of India)

My Commission Expires
on 29/01/2022
MALINI AMARSINGH RAWAT
NOTARY (Govt. of India)