

BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 02/2022 (WZ)



IN THE MATTER OF: -

TANAJI RUIKAR

APPLICANT(S)

VERSUS

SUBHASH STORE, KOLHAPUR  
MUNICIPAL CORPORATION  
WORKSHOP  
& ORS.

RESPONDENT(S)

Reply Affidavit on behalf of Respondent No. 5,  
Central Pollution Control Board (CPCB).

I, Bharat Kumar Sharma S/o Shri D.P Vishwakarma aged 48 years, and having office at Regional Directorate (Pune), Central Pollution Control Board, Hirabai Dhankude Hall, Survey No. 110, Baner Road, Pune – 411045, do hereby solemnly affirm and state as under;

That I am presently working as Scientist 'F' & Regional Director, Regional Directorate, Central Pollution Control Board (CPCB), Pune. I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present Reply Affidavit as under:

1. That the averments made in Para 1 are about the address and profession of the Applicant and hence needs no comments from this answering Respondent No.5.

2. That the averments made in Para 2 are about the operation of car and truck workshop by Respondent No. 1 i.e. Subhash Workshop of Kolhapur Municipal Corporation without permission from Respondent No. 4 i.e. Maharashtra Pollution Control Board (MPCB). It is alleged that all vehicles of Respondent No. 2 i.e. Kolhapur Municipal Corporation being repaired, serviced and maintained and hence needs no comments from this answering Respondent No.5.
3. That the averments made in Para 3 are about address and responsibility of Respondent no. 3 i.e. Ld. Collector of Kolhapur District for maintaining and protecting the wholesome environment. The same are matter of records and hence needs no comments from this answering Respondent No. 5.
4. That the averments made in Para 4 are about the constitution of Respondent no. 4 i.e. MPCB under provisions of Section 4 of the Water (Prevention and Control of Pollution) Act, 1974. The same are matter of records and hence need no comments from this answering Respondent No. 5.
5. That the averments made in Para 5 are about constitution of Respondent no. 5 i.e. Central Pollution Control Board (CPCB) under the Water (Prevention and Control of Pollution) Act, 1974 and powers and functions vested under Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. The same are matter of records and hence need no comments from this answering Respondent No. 5.
6. That the averments made in Para 6 are about responsibility of Respondent no.6 i.e. Ministry of Environment and Climate Change, Mumbai in planning, promoting, co-ordinating and overseeing the implementation of environmental and forestry programs in State of Maharashtra. Also, about main activities of Respondent no.6 for conservation and survey of flora, fauna etc. in the State of Maharashtra and prevention, protection of nature, environment, control of pollution etc. The same are matter of records and hence need no comments from this answering Respondent No. 5.



7. That the averments made in Para 7 are about the illegal operation of car and truck workshop by Respondent No. 1 i.e. Subhash Workshop of Kolhapur Municipal Corporation without valid Consent to Operate from MPCB, non-installation of effluent treatment plant and environmental Rules related to air, water have not been followed by the Respondent No.1. It is also mentioned that untreated effluent is being discharged into nearby nalla, which directly meets into the River Panchaganga and extraction of ground water is done without permission from the concerned authority.

It is humbly submitted that CPCB vide F. No. B-29012/ESS (CPA)/2015-16, dated 07/03/2016 has issued directions to the Chairman of all SPCBS/PCCs u/s 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. As per the aforesaid directions, Automobile servicing, repairing and painting (excluding only fuel dispensing) is categorized under Orange Category. However, if the wastewater generation is more than 100 KLD, it will become mainly water polluting and Red Category unit. Such orange or red categorized facilities are required to operate with valid Consent to Establish (CTE) and Consent to Operate (CTO) issued by the concerned State Pollution Control Board/Pollution Control Committee.

It is humbly submitted that Environment (Protection) Second Amendment Rules, 2019 was published in the Gazette vide G.S.R. 952 (E) on 26/12/2019, by the Ministry of Ministry of Environment, Forest and Climate Change wherein in Standards for Emission or Discharge of Environmental Pollutants from various Industries have been prescribed in the Schedule-I. S. No. 114 of the said Schedule-I stipulates effluent parameters and standards for Automobile Service Station, Bus Depot or Workshop and the same are reproduced as below:



“...2. In the Environment (Protection) Rules, 1986, in Schedule-I, after serial number 113 and the entries relating thereto, the following shall be inserted, namely:-

S. no.	Industry	Parameters	Standard
(1)	(2)	(3)	(4)
“114	<b>Automobile Service Station, Bus Depot or Workshop</b>	Effluent Standard (Concentration not to exceed, in mg/l except for pH)	
		Inland Surface water/land for irrigation/Public Sewer	
		pH	6.5 – 8.5
		Total Suspended Solids	50
		Chemical Oxygen Demand	150
		Oil and Grease	10”

**Note:**

(i) For Service Stations, Bus Depots and Workshops with metal pre-treatment facilities, limit of 5 mg/l of dissolved phosphates (as P) and 5 mg/l of zinc shall also apply.

(ii) Solid Wastes/ Hazardous Waste, if any, shall be disposed off as per the Solid Waste Management Rules 2016 and the Hazardous and Other Waste (Management and Trans-boundary Movement) Rules, 2016.”

Further, it is also humbly submitted that applicability of consent has been stipulated vide Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 which lays down the provisions about the restrictions on new outlets/discharges and previous consent of the State Pollution Control Board to establish or take any steps to establish any industry, operation or process, or any treatment, etc. and the same are reproduced as below:

**25. Restrictions on new outlets and new discharges.**— “[1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, —



(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlets for the discharge of sewage; or

(c) begin to make any new discharge of sewage;

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988 (53 of 1988), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section(1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

[(4) The State Board may —

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of



*discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and (iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or*

*(b) refuse such consent for reasons to be recorded in writing.*

*(5) Where, without the consent of the State Board, any industry operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.*

*(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.]*

*(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the*



*expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.*

*(8) For the purposes of this section and sections 27 and 30, —*

*(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;*

*(b) the expression "new discharge" means a discharge which is not, as respects to nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge."*

Violations, if any, of provisions of the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981 are to be dealt by SPCB in accordance and in exercise of powers vested under the said Acts. SPCB is the authority for granting/rejecting of Consent to Establish (CTE) and Consent to Operate (CTO) for any applicable industrial establishment in the respective State/Union Territory on applications made in this regard to them. Appropriate action against the defaulter facilities may be taken by State Pollution Control Board/Pollution Control Committee under the provision of the said Acts.

Further, it is humbly submitted that provisions about seeking No Objection Certificate (NOC) and its applicability to new industries, industries seeking expansion, infrastructure projects and mining projects for abstracting ground water and their regulation by Central Ground Water Authority have been notified vide guidelines to regulate and control groundwater extraction in the country notified by the Department of Water Resources, River Development &



Ganga Rejuvenation, Ministry of Jal Shakti, vide notification S.O. 3289(E) dated 24<sup>th</sup> September, 2020.

8. That the averments made in Para 8 are about the incident of fish kill in River Panchganga and water pollution of the river, and various complaints filed by citizens and organizations related to river degradation. Further, the Applicant mentioned that appropriate action is not being taken by Respondent No. 4 i.e. MPCB, and hence need no comment from this Answering Respondent No. 5.
9. That the averments made in Para 9 are about the complaint filed by the Applicant against Respondent No. 1 and 2, and the failure of Respondent No. 4 i.e. MPCB to initiate action against Respondent No. 1 and 2. Avertments made are also about filing of another complaint vide dated 30/09/2021 to the Respondent No. 4 i.e. MPCB against the Respondent No. 1 and 2. The same are matter of records and hence need no comments from this answering Respondent No. 5.
10. That the averments made in Para 10 are about the application filed under the Right to information (RTI) Act, 2005 by the Applicant to Respondent No. 4, to obtain the status of operation of workshop and also status of complaints filed thereof and hence need no comments from this answering Respondent No. 5.
11. That the averments made in Para 11 are about the reply submitted by the MPCB with regards to the application filed under RTI Act, 2005 by the Applicant and hence need no comments from this answering Respondent No. 5.
12. That the averments made in Para 12 are about the inspection dated 20/01/2021 carried-out by Respondent No. 4 i.e. MPCB based on the various complaints filed by citizens and news highlighted regarding incident of fish kill in River Panchaganga and hence need no comments from this answering Respondent No. 5.



13. That the averments made in Para 13 are about the show-cause notice issued by the Respondent No. 4 i.e. MPCB to Respondent No. 2 and hence need no comments from this answering Respondent No. 5.
14. That the averments made in Para 14 are about the inspection report dated 08/10/2021 of Respondent No.4 i.e. MPCB and hence need no comments from this answering Respondent No. 5.
15. That the averments made in Para 15 are about not taking cognizance of the complaint by the Respondents, due to which the activities of Respondent No.1 are still in operation.  
  
It is humbly submitted that this answering respondent denies its involvement in the aforesaid alleged issues in view of various submissions made by this Respondent in this affidavit.
16. That the averments made under the heading "**Grounds**" in Paras (A to J) are pertaining to the Applicant's Grounds for filing the present O.A and the comments thereof have already been replied/commented by this answering respondent in the previous Paras of this affidavit.
17. That the averments made in Paras 16 to 17 are about the declaration made by the Applicant and hence need no comment from this answering Respondent No. 5.
18. That the averments made in Para 18 is about the limitation to file the present O.A and hence need no comment from this answering Respondent No. 5.
19. That the averments made under the heading "**Interim Prayer**" interim prayer (I) and submissions made under the heading "**Prayer**" in Paras (a to h) by the Applicant and hence need no comment from this answering Respondent No.5.



**PRAYER**

That in the light of above submissions, it is respectfully prayed that this answering Respondent No. 5 i.e. CPCB, is committed to abide by orders or directions passed by this Hon'ble Tribunal in this matter, as appropriate.

  
DEPONENT

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, Govt. of India  
रोड हाउस नंबर-1, संजीवनी निसर्ग, बालेवाड़ी, पुणे-411045  
House No.-1, Sanjivani Nisarg, Balewadi, Pune-411045

**VERIFICATION**

Verified at Pune on this ..... day of April, 2022 that the contents of the above affidavit are 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  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार  
M/o Env't. Forest & Climate Change, Govt. of India  
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DEPONENT- Respondent No.5

  
P. J. YELWANDE  
NOTARY GOVT. OF INDIA  
PUNE.

1 APR 2022

Counsel for CPCB Respondent No. 5



Notary and Registered  
Notary Number 226  
Date 01.4.2022

