

BEFORE THE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

OA NO. 84 OF 2020 (WZ)



Dhananjay Balwant Kokate & Anr.

Applicant

Versus

Union of India & Ors

Respondents

MOST RESPECTFULLY SHEWETH:

I, Asha Sampat Raut, Age: 46 years, Deputy Municipal Commissioner, Solid Waste management Department, Pune Municipal Corporation, Authorized Signatory on behalf of Respondent No. 5 herein do state on solemn affirmation on behalf of Respondent No. 5 as under:

1. I am Deputy Municipal Commissioner, Solid Waste management Department, Pune Municipal Corporation and Authorized Signatory on behalf of Respondent No. 5. I have read the Original Application and I am acquainted with the facts hence

filing the present Affidavit in Reply on behalf of Respondent No. 5 herein,

2. It is submitted that Applicant has filed present Original Application relating to the Garbage Processing Plant, located at S. No. 51/10, Ambegaon Bk, Pune, which is reserved for Garbage Processing Plant in the Development Plan of Pune wherein Applicant seeking the following prayers.

a. Pass an order for demolition of the said Garbage Processing Plant situated at S No. 51/10, Ambegaon Bk, Pune 411046 and shift the same to some other suitable place.

b. Pass an order constituting a high-level expert committee to investigate into the circumstances under which fire broke out and the illegalities involved in the setting up of the said plant which are adversely affecting environment.

c. Pass an order awarding damages against Respondent No.5 and Contractor towards restoration and restitution of the environment to bring it to its original pristine state: and

d. Pending the hearing and final disposal of this Application be pleased stop the operation of the said plant and to move the existing garbage to a safer place for disposal with immediate effect to avoid further environmental degradation.

e. Pass an order to investigate and find any other better site for the said plant which can be started on the said site by following all due siting guidelines and necessary statutory permissions.

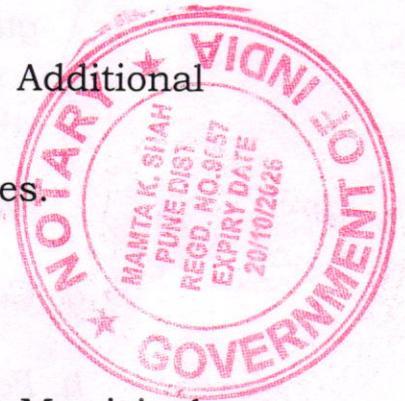
f. Ad interim and interim in terms of prayer clauses (d) may be granted;

g. Cost for the Application be provided for;

h. Pass such further and other reliefs as the nature and circumstances of the case may require.

3. At the outset, I denied all the contentions and/or statements and/or allegations contained in the present Original Application to the extent those are contrary to and/or inconstant with what is stated in the present Affidavit in Reply. Nothing contained in

the Original Application, should be deemed to be admitted by the Respondent No. 5 for want of specific traverse unless the same has been specifically admitted herein below. The present Affidavit in Reply is filing to the purpose to oppose the contentions raised in present Original Application and Joint Committee Report against the Respondent No. 5. I crave leave of this Hon'ble Tribunal to file Additional affidavits as and when the occasion so arises.



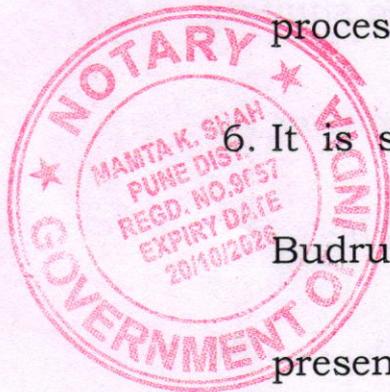
4. It is submitted that the Respondent 5, is a Municipal Corporation of a city is among 8 largest metropolitan cities in India and also a very rapidly developing city. It is submitted that time to time Pune Corporation limits are expanded by the State Government. As on date around 2000-2200 MT of waste is generated in the Pune Municipal Limits. Respondent No. 5 PMC is

processing 100% waste since January 2020 and as on date there is no open dumping of waste by Respondent No. 5.

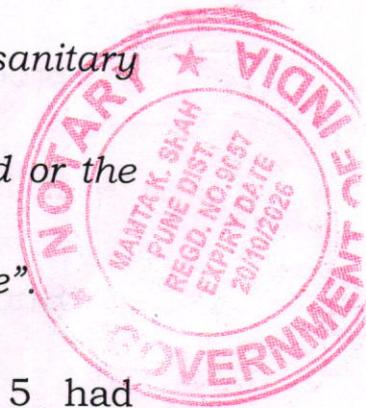
5. It is submitted that the as per the letter dated 03/07/2017, Ministry of Environment and Forest and Climate Change, (MoEF & CC) No Environment Clearance is required for the Municipal Solid Waste processing activity except land fill site.

6. It is submitted that Survey No. 51/10, Ambegaon Budruk, Pune site which is the subject matter of the present Original Application is reserved for Garbage Processing Plant in the Development Plan of Pune since 2012.

7. Respondent No. 5 applied for authorization to set up and operate 200 MT capacity dry waste processing plant (Plant) at Survey No. 51/10, Ambegaon Budruk, Pune vide application dated 01/09/2020



before the Maharashtra State Pollution Control Board seeking the necessary permission to set up and operate the aforesaid plant as per Rule 15 y of Solid Waste Management Rules, 2016 which states Local Body shall *“make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be”*.

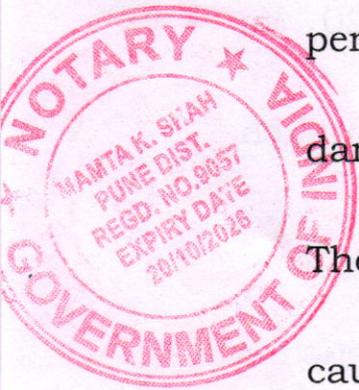


8. It is submitted that as Respondent No. 5 had committed to process 100% waste within the Corporation limits and there was delay in receiving permission from the pollution control Board therefore PMC started trial operations of the Plant from 20/09/2020 with a bona fide intention of processing waste of the city and in order to avoid open dumping

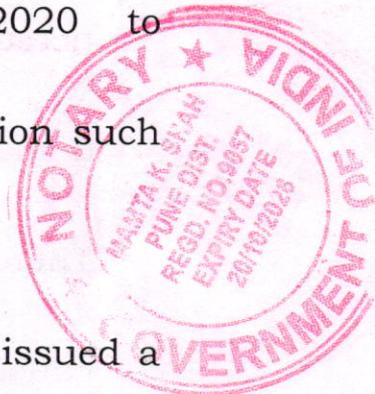
of the waste as 23 new villages were added in Pune Municipal limits leading to increase in generation of around 250 to 300 MT of waste daily. The said plant was supposed to process segregated waste from Katraj plant and therefore there were minimum chances of odour.

9. It is submitted that on 01/11/2020 some unknown person started throwing stones on the Plant and damages vehicles and CCTV installed at the site. Thereafter the said Plant on set on fire which has caused tremendous loss to plant and machinery at the site. A FIR No. 1110 was registered in relation to this incident at Bharti Vidyapith Police Station, Katraj, Pune on 01/11/2020. Since then the Plant is shut down till date.

10. Immediately after this incident this OA was filed on 07/11/2020 before this Hon'ble Tribunal. On



17/11/2020 this Hon'ble Tribunal was pleased to constitute a Joint Committee. Site inspection was done on 09.09.2021. Joint Committee submitted its report in December 2021. Joint committee concluded that as PMC is proposing only Material Recovery Facility now Buffer Zone and Citing criteria would not be applicable and PMC has processed total waste of 2092 MT dry waste during 20/09/2020 to 31/10/2020, MPCB needs to take legal action such violation.



11. It is submitted that on 02/05/2022 MPCB issued a letter directing PMC to deposit Rs. 12,30,000/- towards assessment of damages caused to environment and recovery of environmental compensation.

12. It is submitted that Respondent No. 5 has not done any environment damage, it is because 23 new

villages were added in Pune Municipal limits leading to increase in generation of around 250 to 300 MT of waste daily and PMC to obey its statutory duties during Covid 19 Pandemic waste was processed. The Plant was made operational with the bonfide intentions to process the waste as there was a feeling of fear in those pandemic times to ensure public health.

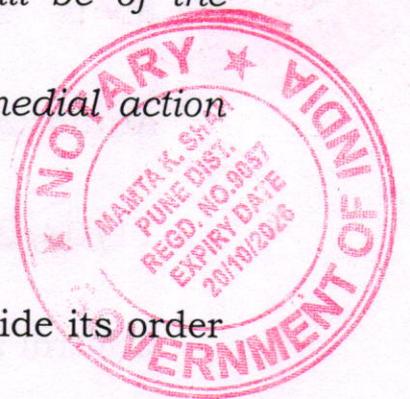
13. It is submitted that PMC has obtained the Authorization under Solid Waste Rules, 2016 dated 11/08/2022 from the Maharashtra State Pollution Control Board relating to a Garbage Processing Plant for an activity of Material Recovery Facility of a processing capacity of 150 MT per day.

Hereto annexed and marked as Exh "A" is a copy of MPCB Authorization letter dated 11/08/2022.

14. It is submitted that even after obtaining the authorization to set up and operate the plant under Solid Waste Rules, 2016 PMC undertakes to obtain consents under Air and Water Act before making the plant operational.

15. It is submitted that Hon'ble Tribunal vide its order dated 10/01/2020 passed in OA No 606 of 2018 para 36 a has observed that *"if the local bodies are unable to bear financial burden, the liability will be of the State Government will liberty to take remedial action against the erring local bodies"*.

16. It is submitted that in Hon'ble Tribunal vide its order dated 08/09/2022 passed in OA No 606 of 2018 have made a reference of this present application at page 31 and at para 31 page 12 it has been observed that *"As already noted and observed in the judgement of the Hon'ble Supreme Court in Paryavaran Surakhsha,*



supra, quoted earlier, the matter falls in 12th Schedule to the Constitution and it is constitutional responsibility of the **State and the Local Bodies** to provide pollution free environment and to arrange funds. Being part of right to life, which is also basic human right and absolute liability of the State, lack of funds cannot be plea to deny such right. **While there may be no objection to any central funds being availed, the State cannot avoid its responsibility or delay its discharge on that pretext**".

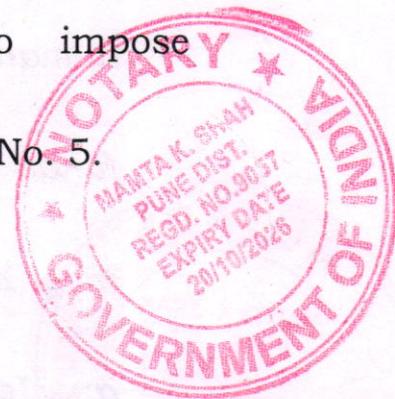
17. It is submitted that therefore a cost of Rs. 12,000 Crores is imposed on State of Maharashtra and not on the local bodies. As issue in the present application has been dealt in OA 606/2018 and a compensation has been imposed on the State therefore again imposing compensation on the

Respondent No. 5 will amounts to be double jeopardy.

18. It is humbly submitted that if facts and circumstances stated above it is humbly prayed that this Hon'ble Tribunal may dismiss the said application and direct MPCB not to impose environment compensation on Respondent No. 5.

Pune

Dated: 07/12/2022



Respondent No. 5



ASHA RAUT
ASHA RAUT
Deputy Commissioner
Solid Waste Management
Pune Municipal Corporation

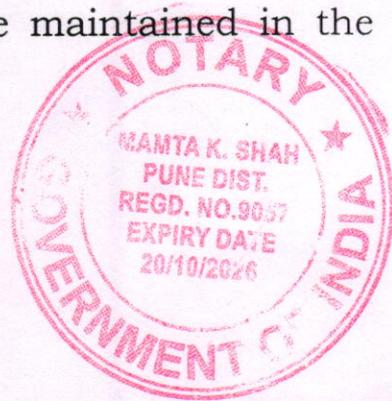
VERIFICATION

I, Asha Sampat Raut, Deputy Municipal Commissioner, Solid Waste management Department, Pune Municipal Corporation, Pune, do hereby verify that the contents of running paragraphs are true to my knowledge/based on records of the maintained in the ordinary course of business.

Solemnly Affirmed.

Pune

Date 25 day of December, 2022.



R. Raut
Advocate for R5

Respondent No. 5



Asha Raut
ASHA RAUT
Deputy Commissioner
Solid Waste Management
Pune Municipal Corporation

BEFORE ME
Mamta K. Shah

MAMTA K. SHAH
NOTARY
GOVT. OF INDIA
PUNE DISTRICT



NOTED AND REGISTERED
AT SR. NO. 20068/2022
DATE.....07 DEC 2022

MAHARASHTRA POLLUTION CONTROL BOARD

Tel: 24010706/24010437
 Fax: 24023516
 Website: <http://mpcb.gov.in>
 Email: robmw@mpcb.gov.in



Kalpataru Point, 2nd and
 4th floor, Opp. Cine Planet
 Cinema, Near Sion Circle,
 Sion (E), Mumbai-400022

No: BO/RO-HQ/MSW_AUTH/2208000013

FORM -II

Dated:

11/08/2022

[See - Rule 16 (1)]



Your Service is Our Duty

To,
 The Municipal Commissioner,
 Pune Municipal corporation, Pune

Subject: Authorization under Solid Waste Management Rules, 2016

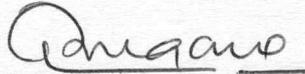
Reference: Your online application for grant of authorization UAN No. MPCB-MSW_AUTH-0000000749 Dtd. 16/02/2022

The Maharashtra Pollution Control Board after examining the proposal hereby authorizes The Commissioner, Pune Municipal Corporation having administrative office at Pune Municipal Corporation, Main Building, Near Mangala Theatre, Shivaji Nagar, Pune to set up and operate Material Recovery Facility at Sr. No. 51/10, Ambegaon Budruk, Pune - 411046 on the terms and conditions (including the standards to be complied with) attached to this authorization.

1. The authorization is hereby granted to set up and operate Material Recovery Facility.
2. The Solid Waste Management authorization is valid for the period up to **31-07-2027**
3. The authorization is subject to the terms and conditions stated below and such conditions as may be otherwise specified in these rules and the standards laid down in Schedules I and II under these rules
4. The Maharashtra Pollution Control Board may at any time revoke any of the condition applicable under the authorization and shall communicate the same in writing.
5. Any violation of provisions of Solid Waste Management Rules, 2016 attracts the penal provisions of the Environment (Protection) Act, 1986 (29 of 1986).
6. This authorization is granted without prejudice or being prejudice of the order passed/ to be passed by Hon'ble High Court/NGT.
7. The Corporation shall strictly follow the EIA Notification, 2006.
8. The Corporation shall design and set up the facility as per the technical guidelines issued by the Central Pollution Control Board in this regard from time to time and the manual on solid waste management prepared by the Ministry of Urban Development.
9. The Corporation shall be responsible for the safe and environmentally sound operations of the solid waste processing and or treatment facilities as per the guidelines issued by the Central Pollution Control Board from time to time and the Manual on Municipal Solid Waste Management published by the Ministry of Urban Development and updated from time to time.

10. The Corporation shall provide Buffer Zone around the solid waste processing and disposal facility as per CPCB guidelines by carrying out study of area and solid waste management Rules, 2016.
11. The Corporation shall make an application for renewal of the Authorization at least 60 days before the date of the expiry of the Authorization.
12. This is issued with the approval of Consent Committee of the Board in its meeting held on 01/08/2022.

For and on behalf of the
Maharashtra Pollution Control Board.


(Ashok Shingare IAS),
Member Secretary

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1. The District Collector, Pune - Being one of the implementing authorities having overall responsibility for the enforcement of the provisions of Solid Waste Management Rules, 2016, it is obligatory on your part to see that the Solid Waste is processed & disposed off in accordance with the said Rules.

Copy To:

1. Regional Officer, MPCB, Pune / Sub Regional Officer, MPCB, Pune | For necessary action and follow up.
2. Master File.



ANNEXURE -I

Terms & Conditions to Operate Material Recovery Facility at following location by The Municipal Commissioner, Pune Municipal Corporation as mention below.

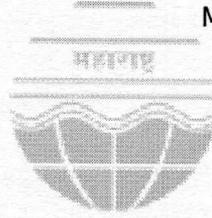
- 1 150 MT/Day of Solid Waste generated shall be processed and disposed as below:

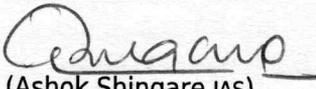
Sr.No.	Operating Agency	Location of waste processing site	Municipal Waste	Method of Treatment
1	Adarsh Bharat Enviro Pvt. Ltd, Sr. No. 15, Vitthal Nagar, Hadapsar, Pune -28	Sr. No. 51/10, Ambegaon Budruk, Pune - 411046	150.00 MT/ Day	1. Material Recovery Facility

2. The municipal authority shall comply with these rules as per the implementation Schedule laid down in Schedule I as per Solid Waste Management Rules, 2016.
3. The Corporation shall submit its annual report in Form-IV to Maharashtra Pollution Control Board and the Secretary-in-Charge of the Department of Urban Development of the concerned State or Union Territory in case of metropolitan city and to the Director of Municipal Administration or Commissioner of Municipal Administration or Officer in-Charge of Urban local bodies in the state in case of all other local bodies of state on or before the 30th day of June every year.
4. When an accident occurs of any municipal solid wastes collection, segregation, storage, processing, treatment and disposal facility or landfill site or during the transportation of such wastes, the municipal authorities shall forthwith report the accident in Form-VI to the Secretary In charge of the Urban Development. Department in metropolitan cities and to the District Collector in all other cases.
5. The inert created during handling and processing of MSW shall be properly land filled at authorized site.
6. The municipal authority will have to abide by the provisions of Solid Waste Management Rules, 2016.
7. Tipper and Dumper shall be avoided. Closed body bins can be used or compactor used for MSW collections.
8. Raw waste material shall not be dumped/stored temporary at this site.
9. All recyclable material shall be segregated at source and before receiving at disposal site.
10. All mitigation measures like odour, smoke, fire, dust, nuisance etc. shall be taken by the Corporation.
11. Environment Management Plan and Disaster Management Plan shall be prepared and implemented by the Corporation.
12. The Corporation shall submit Bank Guarantee of Rs. 5 lacs towards compliance of authorization conditions to the Board within 15 days period from issuance of this authorization, which will be valid for a period of five year.
13. The Corporation shall implement the timely action plan for site selection, acquisition of land, treatment and processing of solid waste as per the Minutes of the Order dtd.2/4/2013 passed by Hon'ble High Court, Mumbai against the writ petition No.1740/1998.
14. The Corporation shall design and set up the facility as per the technical guidelines issued by the Central Pollution Control Board in this regard from time to time and the manual on solid waste management prepared by the Ministry of Urban Development

15. The Corporation shall be responsible for the safe and environmentally sound operations of the solid waste processing and or treatment facilities as per the guidelines issued by the Central Pollution Control Board from time to time and the Manual on Municipal Solid Waste Management published by the Ministry of Urban Development and updated from time to time.
16. The Corporation of the facility shall disposed off inert material/ residue, as per Solid Waste Management Rule, 2016.
17. The Corporation of the facility shall not extract ground water without approval from Central Ground Water Authority (CGWA).
18. The Corporation of the facility shall ensure that, during the Manson adequate preventive measures are taken to erosion of MSW from site and doesn't flow in to the drain and adjacent area.
19. The Corporation of the facility shall provide proper leachate collection and treatment system for treatment of generated leachates.
20. This authorization is granted without prejudice or being prejudice of the order passed/ to be passed by Hon'ble High Court/NGT.
21. The Corporation shall provide Buffer Zone around the solid waste processing and disposal facility as per CPCB guidelines by carrying out study of area and solid waste management Rules, 2016.
22. This is issued with the approval of Consent Committee of the Board in its meeting held on 01/08/2022.

For and on behalf of the
Maharashtra Pollution Control Board.




(Ashok Shingare IAS),
Member Secretary