

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

AT PUNE

ORIGINAL APPLICATION No.22 of 2023 (WZ)

AMOL ABHIMANYU SHINDE & ORS APPLICANTS

V/s

MAHARASHTRA POLLUTION CONTROL

BOARD & ORS

RESPONDENTS

REPLY ON BEHALF OF RESPONDENT No.9 TO THE
ADDITIONAL AFFIDAVIT OF RESPONDENT No.1 DATED 29TH
AUGUST 2023

MAY IT PLEASE THE HON'BLE TRIBUNAL

1. At the outset the contents/averments/statements made in the Additional Affidavit of the Respondent No.1 are denied by this Respondent. Nothing shall be deemed to be admitted for want of specific traverse.
2. The Respondent No.9 submits that the Respondent No.1 has assessed the Environmental Damage Compensation (EDC) to the tune of Rs.3,88,20,000/- against the Respondent No.8 and Rs.1,25,60,000/- against the Respondent No.9. The Respondent No.1 in the said additional affidavit states that the EDC has been calculated on the basis of the formula prescribed by the Central Pollution Control Board (CPCB) in accordance to the directions of

this Hon'ble Tribunal in the case of Paryavaran Suraksha Manch vs Union of India.

3. The Respondent No.9 submits that the formula was devised by the CPCB for calculation of EDC. Environmental compensation is a policy instrument for the protection of the environment which works on the Polluter Pay Principal. Unfortunately, the entire Original Application and the Affidavit of the Respondent No.1 is silent on the aspect of the destruction to the environment. The Applicant has merely made a bald statement that heavy penalty shall be imposed on the Respondent No.1, but has failed to produce any substantial proof thereof. The report of the CPCB has enumerated the cases under which the EDC is to be levied, they are:-

" Cases considered for levying Environmental Compensation (EC):

- (a) Discharges in violation of consent conditions, mainly prescribed standards / consent limits.*
- (b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.*
- (c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission / Effluent Monitoring systems.*
- (d) Accidental discharges lasting for short durations resulting into damage to the environment.*
- (e) Intentional discharges to the environment -- land, water and air resulting into acute injury or damage to the environment.*
- (f) Injection of treated/partially treated/ untreated effluents to ground water."*

Copy of the report of the CPCB is annexed hereto and marked as

ANNEXURE – R-1.

4. The Respondent No.9 submits that the calculation of the EDC is without application of mind. The Respondent No.9 was not afforded any opportunity of hearing by the Respondent No.1 prior to calculation of the EDC. The Respondent No.8 has been already penalized for Rs. 126739/- being the penal charges for applying for the Consent to Operate in accordance to its circular dated 22nd July 2022. Copy of the said circular is annexed hereto and marked as ANNEXURE – R-2. The said penal charges are for late application for the consent and the Respondent No.9 is already penalized. Once the penalty has been levied, there is no question of imposing of additional EDC. As the Applicant and the Respondent No.1 have clearly failed to substantiate before this Hon'ble Tribunal, the damage to the environment, the Original Application is liable to be dismissed.

Pune

Date

Respondent No.9
Through proprietor
Akansha Hrishikesh Chikhale

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A F F I D A V I T

MAY IT PLEASE THE HON'BLE TRIBUNAL:

I Akanksha Rishikesh Chikhale, Age about 30 years, Occupation Business, having address at 123/2/A, at Post Manchar Tal: Ambegaon, Dist: Pune 410503, proprietor of Rheansh Food, the Respondent No. 9 herein do hereby state on solemn affirmation as under: -

I am Proprietor of the Respondent No.9 above named and responsible for day to day administration of my business. As such, I have gone through the Reply to the Additional Affidavit of Respondent No.1 thereto filed today. I find that the contents in the said reply are true and correct to the best of my knowledge and belief and which may be treated as part and parcel of the present affidavit.

WHATSOEVER STATED ABOVE is true and correct to the best of my knowledge and belief. In witness whereof I have signed hereunder at Manchar on 31 day of August 2024.

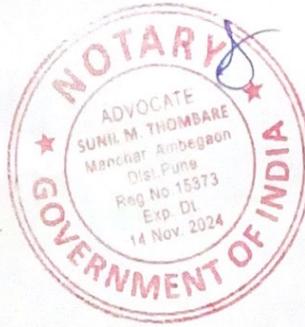


Aty

AW
AFFIANT

I KNOW THE AFFIANT

Solemnly affirmed before me
At Manchar by Shri *Arunksha*
Who is identified by *Rishikesh*
Shri. *chi khale*
to whom I personally know.
Date. *31/07/2024*.



BEFORE ME
Sunil M. Thombare
SUNIL M. THOMBARE
ADVOCATE & NOTARY (Govt of India)
Manchar Ambegaon, Pune
Reg. No. 15373

31 JUL 2024