

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**  
**ORIGINAL APPLICATION NO. 180 OF 2017(WZ)**  
*(Matter transferred from Western Zone Bench, Pune to Principal Bench, New Delhi vide order dated 19.10.2020)*

**IN THE MATTER OF:**

Ms. Purva Pravin Bora & Ors. ...Applicant

Versus

Ministry of Environment, Forest  
and Climate Change & Ors. ...Respondent(s)

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**THROUGH:**

*Abhinav*

**GSL CHAMBERS  
ADVOCATES FOR THE RESPONDENT NO. 8  
E-28, L.G.F. & 2<sup>nd</sup> FLOOR,  
LAJPAT NAGAR-III,  
NEW DELHI-110024  
MOBILE: 9811954243  
Email: [Abhinav.shrivastava@gsic.in](mailto:Abhinav.shrivastava@gsic.in)  
Arjun.garg@gsic.in**

**PLACE: NEW DELHI  
DATED: 07.11.2020**



BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 180 OF 2017(WZ)

(Matter transferred from Western Zone Bench, Pune to Principal Bench, New Delhi vide order dated 19.10.2020)

**IN THE MATTER OF:**

Ms. Purva Pravin Bora & Ors.

...Applicant

Versus

Ministry' of Environment, Forest and Climate Change & Ors.

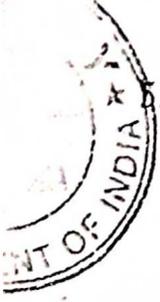
....Respondent(s)

**SHORT COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT**

**NO. 8 JOHNSON & JOHNSON PRIVATE LIMITED**

**MOST RESPECTFULLY SHOWETH:-**

1. I, Shri Mayur Vasani, S/o Shri Chandrakant Vasani, aged about 42 years working as Director and Company Secretary of Johnson & Johnson Private Limited having office at Arena Space, Off JVLR, Jogeshwari -East, Behind Majas Bus Depot, 'Mumbai 400 060, do hereby solemnly affirm and state as follows.
2. That I, in my official capacity of Director and Company Secretary, Johnson & Johnson Private Limited is fully conversant with the facts and circumstances of the present case and as such is competent to swear this short counter affidavit on behalf of Respondent No. 8.
3. That I have read and understood the present Original Application before filling of the present short counter affidavit.
4. That, the' present Original Application has been filed by the Applicants under section 14, 15 & 20 of the National green Tribunal Act, 2010 (hereinafter referred to as 'NGT Act') pertaining to implementation of several rules of the Solid Waste Management, Rules 2016 (hereinafter referred to as 'SWM Rules').



That the Answering Respondent herein i.e. Respondent No. 10 (hereinafter to be referred to as 'Answering Respondent') has been arrayed as one of the Respondent *vide* order dated 14.11.2017 passed by the Ld. National Green Tribunal, Western Zone Bench, Pune. However, it is submitted that the Answering Respondent was served with the copy of the present Original Application *vide* email dated 22.10.2020 through the Ld. Counsel on behalf of the Applicants. It is further submitted that the Answering Respondent had not been served with the complete copy of the Original Application as the annexures as filed along with the Original Application had not been supplied to the Answering Respondent. The copy of the email dated 22.10.2020 sent by the counsel of the Applicants to the Respondents is annexed hereto and marked as **Annexure R-1.**

6. That the counsel for the answering respondent immediately requested the applicant to supply complete set of the application for filing the reply of the answering respondent. The copy of the email dated 31.10.2020 sent by the counsel of the answering respondent to the applicant is annexed hereto and marked as **Annexure R-2.**
7. That the Answering respondent was served the complete set only on the 05.11.2020 by an email of the counsel of the applicants. The Answering respondent therefore could not file a detailed reply with the short time available before the next date of hearing. The copy of the email dated 05.11.2020 sent by the counsel of the Applicants to the Respondents is annexed hereto and marked as **Annexure R-3.**
8. That the Answering Respondent craves liberty of this Ld. Tribunal to raise further detailed submissions or to file additional/ detailed affidavit at a later stage.
9. That the Answering Respondent herein, shall place on record essential facts and circumstances leading to the present dispute, which are germane for proper adjudication by this Ld. Tribunal. The Answering Respondent is placing on record its preliminary submissions and legal objections to the Original Application filed



b y the Applicants. The fact that the Answering Respondent may not have separately denied each such allegation, assertion, averment and/or statement should not be read as an admission of the contents of the Original Application in any manner whatsoever, unless anything specific has been admitted herein under.

10. That, present Original Application deserves to be dismissed and the Answering Respondent herein wants to put preliminary submissions/ legal objections as well as brief facts before this Ld. Tribunal:

a. It is submitted that the Applicant has filed the present original application under section 14 of the NGT Act read with section 15 & 20 of the NGT Act. It is pertinent to note that section 14(3) reads as follows:

*'No Application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute arose:*

*Provided that that the Tribunal, may, if it is satisfied that the applicant was prevented by sufficient cause from filling the application within the period, allow it to be filled within a further period not exceeding sixty days "*

It is submitted that the cause of action first arose when the Ministry of Environment, Forest and Climate Change (hereinafter referred to as 'MoEF')/ Respondent No. 1 had notified the SWM Rules vide S.O. 1357 (E) dated 08.04.2016. Hence, the period of filing the application under section 14 of the NGT Act expired at best in December 2016. The present application only came to be filed on 10.11.2017 and the same is hopelessly time barred as per Section 14(3) of the NGT Act and the same is liable to be dismissed on this ground alone.

b. It is submitted that the Ld. National Green Tribunal, Central Zonal Bench, Bhopal in O.A. No. 30/2015 (CZ) titled as PC

*Sharma vs Procter and Gamble Home Products Limited &*

*Ors. vide order dated 03.08.2017 gave the direction:*

*“26. So far as the disposal of sanitary items is concerned, since the sanitary waste has been classed as Municipal Solid Waste by the CPCB / MoEF the Solid Waste Management Rules 2016 shall be applicable to the Respondent No. 1. Therefore, we also direct that the Respondent No. 1 shall comply with the Solid Waste Management Rules, 2016 by providing a disposal pouch or wrapper along with the packaged sanitary products for safe and proper disposal of used sanitary napkins and diapers. It shall also be obligatory for the Respondent No. 1 to undertake public awareness measures for disposal of used napkins and diapers in prescribed manner.”*

The copy of the order dated 03.08.2017 passed by the Ld. National Green Tribunal, Central Zonal Bench, Bhopal in O.A. No. 30/2015 (CZ) is annexed hereto and marked as

**Annexure R-4.**

- c. It is further submitted that the said order dated 03.08.2017 was challenged by Procter and Gamble Home Products Limited, (Respondent No. 11 in the present proceedings) the Respondent therein by way of Review Application No. 08/2017. The Ld. National Green Tribunal, Central Zonal Bench, Bhopal found no ground to interfere with its order dated 03.08.2017 and dismissed the same.

A Copy of the order dated 03.12.2019 passed by the Ld. National Green Tribunal, Central Zonal Bench, Bhopal in R.A. 08/2017 in O.A. No. 30/2015.(CZ) is annexed hereto and marked as **Annexure R-5.**

- d. It is further submitted that the order dated 03.08.2017 passed by the Ld. National Green Tribunal, Central Zonal Bench, Bhopal in O.A. No. 30/2015 (CZ) & the order dated 03.12.2019 passed by the Ld. National Green Tribunal, Central Zonal Bench, Bhopal in R.A. 08/2017 in O.A. No. 30/2015 (CZ) have been challenged by Procter and Gamble





Home Products Limited before the Hon'ble Supreme Court of India in Civil Appeal No. 835 of 2020 titled as *M/s Procter and Gamble Home Products Limited (now known as Procter and Gamble Home Products Private Limited) versus PC Sharma & Ors.* wherein the Hon'ble Supreme Court *vide* order dated 27.01.2020 has directed that *status quo* to be maintained by the parties. It is therefore submitted that the subject matter of the present matter which is the implementation and interpretation of Rule 17 of SWM Rules is sub-judice and is pending before the Hon'ble Supreme Court.

A Copy of the order dated 27.01.2020 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 835 of 2020 is annexed hereto and marked as Annexure R-6.

- e. It is submitted that in light of the above submissions it is submitted that with regards to the interpretation of Rule 17 of the SWM Rules which is the subject matter of the present Original Application, the issue is presently sub-judice and is pending before the **Hon'ble Supreme Court of India in Civil Appeal No. 835 of 2020 titled as M/s Procter and Gamble Home Products Limited (now known as Procter and Gamble Home Products Private Limited) versus PC Sharma & Ors.** wherein the Hon'ble Supreme Court *vide* order dated 27.01.2020 has directed that *status quo* to be maintained by the parties, hence, it is prayed that the present matter be either *sine-die* adjourned or in the alternative be deferred as the interpretation of Rule 17 of SWM Rules is pending consideration before the Hon'ble Supreme Court.



DEPONENT



VERIFICATION

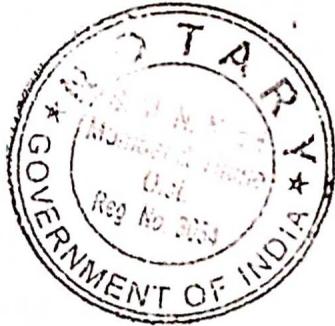
I, the abovenamed deponent, verify that the contents of this affidavit are true to the best of my knowledge and nothing material has been concealed therefrom.

Verified at Mumbai on 6 this day of November 2020



*[Handwritten signature]*

DEPONENT



BEFORE ME

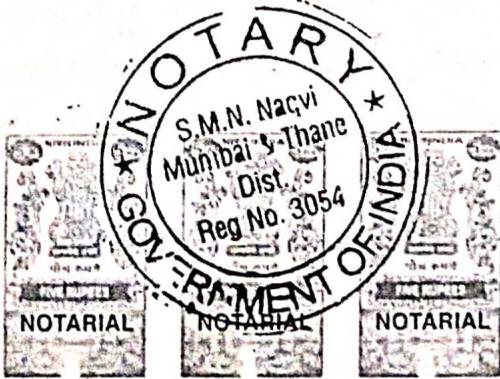
*Sy 11-22*

S. M. N. NAQVI

Notary Govt of India  
49, Roshan Estate. ...; Mari.  
Kiirla (W), Mumabi - 400 070

SR. No...j/go ..... ?./.....

NOTARY Date..... b././f.^



NGT Case No. 180/2017 - Purva Bora & Ors Vs.MoEFCC & Ors

5 messages

ANNEXURE R-1

DILIP DHARMADHIKARI <dsdharmadhikari@gmail.com>

22 October 2020 at 17:39

To: Rahul Garg <rahul.garg@mgklegal.com>, adv.manasi.joshi@outlook.com, ropune@mpcb.gov.in, PMCMCU@gmail.com, admin@mgklegal.com, sameer.khale@mgklegal.com, sec\_ud1@maharashtra.gov.in, Kalawatiakash@gmail.com, kapil.arora@cyrilshroff.com, ganesh.r@pg.com, paralikar.amogh@gmail.com, karan.kohli@gslc.in

**ASIM SARODE AND ASSOCIATES**

(Advocates)

**Flat No.1, Prathamesh CHS, Lane No.5, Prabhat Road, Pune-04**

**Phone no. 25457222, Cell No. 9850821117 Email- asim.human@gmail.com**

Date: 21/10/2020

**By e-mail**

To:

**1. Ministry of Environment, Forest and Climate Change**

(MoEFCC), Paryavaran Bhavan , C.G.O. Complex,  
Lodhi Road, New Delhi-110003.

**2. Maharashtra Pollution Control Board**

Kalptaru Point, Sion Circle, Sion (E),

Mumbai – 400 022

Through its Sub Regional Officer

Jog Centre, 3<sup>rd</sup> floor,

Mumbai – Pune Road, Wakadewadi, Pune-411 003.

**3. The Director, Health Department,**

Government of Maharashtra

Arogya Bhavan 1<sup>st</sup> Floor,

St, George's Hospital Compound,

Near C.S.T. Station, Mumbai – 400 001

**4. Pune Municipal Corporation (PMC),**

Through its Commissioner, PMC Building,

Shivajinagar, Pune-411 005

**5. Municipal Corporation of Greater Mumbai (MCGM)**

Through its Commissioner, Mahapalika Marg, Fort,

Mumbai- 400 001

**6. Nagpur Municipal Corporation (NMC)**

Through its Commissioner, Mahanagar Palika Marg, Near Vidhan Bhavan, Civil Lines,  
Nagpur, Maharashtra 440001

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Through

7. **Department of Urban Development,**  
its Principal Secretary, Room No. 423 (main), Nagar Vikas Vibhag, Mantralaya,  
Mumbai-400 032;
8. **Jonson and Jonson Private Ltd.**  
501, Arena Space, Behind Majas Bus Depot,  
Off Jogeshwari Vikhroli Link Road,  
Mumbai – 400 060
9. **Unicharm India Private Ltd.**  
Unit No. 501 to 504 and 510 to 518,  
5<sup>th</sup> Floor, Centrum Plaza Building,  
Golf Course Road, Sector 53, Gurgaon-122 002
10. **Kimberly-Clark Lever Ltd.,**  
P.B. No. 862, Deccan Gymkhana Post Office,  
Deccan Gymkhana, Pune-411 004.
11. **Procter and Gamble India,**  
P and G Plaza, Cardinal Gracias Road,  
Chakale, Andheri (E) Mumbai-400 099.
12. **Mr. Ravindra Prabhakar Gore,**  
Age: 63 Yrs, Occ : Retired  
R/at 'Sourabh' G 732, Soudagar Housing Society,  
Akshaya Nagar, Dhanakawdi, Pune-411 043

**Subject:** Regarding transfer of the case to the Principal Bench, National Green Tribunal, New Delhi (O.A. No. 180/2017 – Purva Bora & Ors Vs. MoEFCC & Ors.)

Sir/s,

You all are being Respondent Nos. 1 to 12 in the above-mentioned case, we on behalf of Petitioner inform you in good-faith that on 19<sup>th</sup> October 2020, when the case was listed for hearing on Video Conferencing before the Principal Bench, NGT, New Delhi, the Hon'ble Tribunal ( Hon'ble Judicial Member Sheo Kumar Singh, and Hon'ble Expert Member Dr. Satyawan Singh Garbyal) has passed the order that the matter should be expedited and should be disposed of off finally so that it may be implemented throughout the nation and thus should be transferred to the Principal Bench of this Tribunal. (The detailed order passed on 19<sup>th</sup> October 2020 is attached along with this letter).

You, all Respondents, therefore, hereby requested that on the next date **i.e. on 10/11/2020**, you may remain present before the Principal Bench of NGT, New Delhi for conducting this case.

We are also attaching herewith a copy of our main Petition for your ready reference. 9

Hence this letter,

Thanking you, -

-  
Yours,

(Asim Sarode)  
Advocate for Applicants  
In O.A. No.180/2017

Encl: As above

--  
For Asim Sarode and Associates,  
Dilip.S. Dharmadhikari  
Flat No.1, Prathamesh CHS,  
Lane No.5, Prabhat Road, Pune-411 004.  
Ph. 020-25459777

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**3 attachments**

-  **Notices to all Respondent for transfer the matter.docx**  
17K
-  **Order purva bora 19 Oct 2020.pdf**  
254K
-  **Amended Main Application.doc**  
132K

*Abhinav*  
// True Copy //

ANNEXURE R-2

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31 October 2020 at 15:21

Karan Kohli <karan.kohli@gslc.in>

To: DILIP DHARMADHIKARI <dsdharmadhikari@gmail.com>, asim.human@gmail.com

Cc: Abhinav Shrivastava <abhinav.shrivastava@gslc.in>, Arjun Garg <arjun.garg@gslc.in>

Dear Dilip,

In pursuance of the trailing mail, we would like to bring to your kind attention that, we represent Repondent No. 8 (Johnson & Johnson Private Limited) and Respondent No. 10 (Kimberly Clark Lever Ltd.) respectively.

Please note that as per the trailing mail, we have only been supplied with the copy of the Amended Application filed before the Ld. National Green Tribunal and the same does not contain any annexures/ documents which are material for us to file our detailed response.

Hence, we are unable to file a detailed response as the entire set of papers of the captioned matter have not been supplied to us.

In the light of the above you are requested to supply us the entire copy of the Original Application in the captioned matter.

Thanks & Regards

Karan Kohli

C/o GSL Chambers

On behalf of Respondent No. 8 & 10



**Karan Kohli**

Associate, GSL Chambers

E-28, L.G.F & 2nd Floor

Lajpat Nagar-III, New Delhi-110024

(M) - +91-9625779611

(O) - 011-4654.4243/43516615

E: karan.kohli@gslc.in

*Abhinav*  
// True Copy //

ANNEXURE R-3 11  
5 November 2020 at 13:15

DILIP DHARMADHIKARI <dsdharmadhikari@gmail.com>  
To: Karan Kohli <karan.kohli@gslc.in>

R/sir,  
We are herewith sending you all the papers PDF Scan copies available with us, as you desired. This includes Main Petition, Annexures filed by the Petitioner, replies given by some of the Respondents etc.

Please see the attachment

Thanking you and with regards  
[Quoted text hidden]

 PURVA BORA OA NO 180 OF 2017.rar  
10358K

Karan Kohli <karan.kohli@gslc.in>  
To: Abhinav Shrivastava <abhinav.shrivastava@gslc.in>, Arjun Garg <arjun.garg@gslc.in>

5 November 2020 at 13:27

----- Forwarded message -----  
From: DILIP DHARMADHIKARI <dsdharmadhikari@gmail.com>  
[Quoted text hidden]  
[Quoted text hidden]

 PURVA BORA OA NO 180 OF 2017.rar  
10358K

Abhinav  
// True Copy //

ANNEXURE R-4

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**BEFORE THE NATIONAL GREEN TRIBUNAL  
CENTRAL ZONAL BENCH, BHOPAL**

**Original Application No. 30/2015 (CZ)**

**CORAM:**

**Hon'ble Mr. Justice Dalip Singh  
(Judicial Member)**

**Hon'ble Dr. S.S. Garbyal  
(Expert Member)**

**BETWEEN:**

1. PC Sharma  
S/o Late Shri M.L Sharma  
R/o F-1/7 1100 Quarters, Bhopal

.....Applicant

**Versus**

1. M/s Proctor and Gamble Home  
Products Limited through its Plant  
Manager, Plot No 182-A Industrial Area,  
Mandideep 462046
2. Shri Shantanu Khosla,  
Managing Director ,  
M/s Proctor and Gamble  
Home products Limited, P&G Plaza,  
Cardinal Gracias Road, Andheri East,  
Mumbai
3. State of Madhya Pradesh,  
Through the Principal Secretary,  
Government of Madhya Pradesh,  
Department of Commerce,  
Industries and Employment,  
Vallabh Bhawan, Bhopal

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4. State of Madhya Pradesh,  
Through The Principal Secretary,  
Government of Madhya Pradesh,  
Department of Urban Administration and Environment,  
Vallabh Bhawan Bhopal
5. The Madhya Pradesh State Environment  
Impact Assessment Authority  
(MPSEIAA) through its Member  
Secretary EPCO Building,  
Paryavaran Parisar, E-5 Arera Colony,  
Bhopal.
6. The Madhya Pradesh Audyogik Kendra  
Vikas Nigam (MPAKVN) through its  
Managing Director,  
Tawa Complex, Bittan Market,  
Bhopal
7. The Madhya Pradesh Pollution Control Board,  
through its Member Secretary  
Building, Paryavaran Parisa, E-5 Arera  
Colony Bhopal
8. The Municipal Council, Mandideep  
Through its Chief Municipal Officer,  
Municipal Council Officer, Madideep,  
District Raisen
9. The State of Madhya Pradesh,  
through its Chief Medical and Health Officer  
(CM&HO) District Raisen (Madhya Pradesh)
10. Ministry of Environment & Forests & Climate Change,  
Regional Office (WZ),  
Bhopal

.....Respondents

<b><u>Counsel for Applicant :</u></b>	<b>Shri Ayush Dev Bajpai, Adv.</b>
<b><u>Counsel for State :</u></b>	<b>Shri Sachin K.Verma, Adv.</b>
<b><u>Counsel for MoEF:</u></b>	<b>Shri O. S. Shrivastava, Adv.</b>
<b><u>Counsel for MPPCB &amp; MPSEIAA</u></b>	<b>Ms. Parul Bhadoria, Adv.</b>
<b><u>Counsel for Respondent No.1 :</u></b>	<b>Shri Ajay Gupta, Adv. with Shri Ankur Mittal, Adv.</b>

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## J U D G E M E N T

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**Reserved on July 20<sup>th</sup>, 2017**  
**Pronounced on August 3<sup>rd</sup>, 2017**

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- 1) Whether the judgement is allowed to be published on the internet - yes / no
- 2) Whether the Judgement is to be published in the All India NGT Report - yes /no

### **DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

1. In this OA filed on 25.04.2015, the applicant had submitted that the Respondent No.1 plant has been manufacturing since 1991 in Mandideep various home products including detergents, baby care products and other products having various chemical compositions. It has been submitted that while manufacturing these products it has been using toxic Savinase Enzyme, STPP, Sulphate, Soda, AC Base, Cellulose Methyl Carboxylate (CMC), Absorbent Gelling Material (AGM) and other hazardous materials.
2. It has been alleged by the applicant that this industrial unit has undergone massive expansion from 2012 to 2015 and constructions were done without obtaining EC as stipulated under EIA notification dated 24.09.2006 under Environment (Protection) Act, 1986. It was also alleged that Respondent plant had violated the guidelines on green belt issued by CPCB and had cut down 150 trees without obtaining permission of the Competent Authority. It has further been stated that safety equipments used in the plant are not 100 per cent fool proof and workers are exposed to various toxic enzymes and

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therefore have been suffering from various fatal diseases. It has also been stated that Madhya Pradesh Pollution Control Board (in short MPPCB) had earlier issued show cause notice to the Respondent plant as it had observed that :

- i. *Display Board containing the information of hazardous waste details has not been found at the outside of the unit as per directives of the Hon'ble Supreme Court.*
- ii. *During the inspection, it has been observed that filters of DG sets, chemical containers insulating material and rock wool was lying here and there and the representatives of the unit don't even know about the same.*
- iii. *Separate storage for hazardous waste was not found in the unit and hazardous waste was stored in the scrap yard. The description and labeling was also not found on the hazardous waste.*
- iv. *The plastic waste generated from the unit is being given to the other unauthorized vendor M/s Rauf Enterprises Mandideep.*
- v. *Details and quantity were not given to algacide being used in cooling towers and chemical information on composition and pathways were not provided.*
- vi. *Discharge of waste water outside the premises was found near to gate number 3 and also near the STP.*
- vii. *The discharge from temporary toilets and bathroom was found outside the premises.*
- viii. *Cooling tower, softeners, wash area have not been joint to treatment plant by closed conduit. Waste water was also observed in the waste water drains.*
- ix. *The information on quality of disposal practice of salt and resin used in softener was not provided.*
- x. *The whole area of the industry has been covered as construction area and no place of green belt has been left as per guidelines of CPCB.*
- xi. *No permission has been taken from the Mining Department for the excavation for the expansion*

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*program. The details of Environmental Clearance under the EIA notification 2006 have not been given by the industry officials. It seems the mined land is more than 5 hectares.*

- xii. Operation of the treatment plant was found satisfactory and excess foam was observed in the effluent, moreover separate electricity meter has not been installed for the treatment plant.*
- xiii. Leaking of diesel from the valve of diesel line was observed which was contaminating the soil of the area.*
- xiv. Adequate land was not found for the utilization of treated effluent towards the green belt development. The grass of the lawn was found burned because of the use of toxic untreated effluent.*
- xv. Battery waste which comes under hazardous waste were observed stored with the scrap and ash of the lead acid battery was found on the open area.*
- xvi. Monitoring reports for DG set and other emission sources have not been submitted as per the condition of the consent.*

3. It has been stated in OA that issues raised in the Show Cause Notice of the PCB have not been complied with and the Respondent plant has been violating the environmental norms pertaining to EC, Hazardous Waste Management, and conditions of Air & Water Act. The applicant, therefore, prayed that this Tribunal may-

- a. Direct the closure of the factory operated by the respondent no. 1 & 2.*
- b. Direct the respondent no. 1 & 2 to restore the area in question to its original form, in the interest of justice and environment.*
- c. Direct an independent agency other than the MPPCB to evaluate the losses caused to the environment.*
- d. Direct immediate action under the penal powers of this Hon 'ble Tribunal for the continuous violation for the environmental laws by the respondent no. 1 by raising construction without obtaining prior environmental clearance.*

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- e. *Direct the respondent no. , 1 not to sell or alienate the property in dispute or create any third party interest in the illegally raised construction of the industry.*
  - f. *Impose exemplary penalty on the respondent No. 1 and prosecute respondent no. 1 and prosecute respondent no. 2 for repeated and continuous violations, in accordance to the polluter pays principal.*
  - g. *Initiate suitable action against the officials who have failed in ensuring compliance of the orders / rules restraining the construction activities.*
  - h. *Any other relief that this Hon'ble Tribunal may deem appropriate.*
4. On being satisfied that there was a substantial question connected to and concerned with the ecology and environment, this Tribunal on 29.04.2015 ordered the notices to be issued to the respondents.
5. On 19.05.2015 the applicant filed his averments wherein it was submitted that all the deficiencies pointed out by the MPPCB in their inspection were rectified and also that there is no discharge from the unit outside. In order to find out any adverse impact on the soil around the plant the Central Ground Water Authority (in short CGWA) was directed on 28.07.2015 to take soil samples from ground around the industrial unit of the Respondent No.1 and particularly from the inhabited areas where ground water may be consumed by the residents of the area for drinking purposes so as to find out its contents and quantity and potability and whether same is safe for being consumed. State of MP was also directed to take the soil samples from points where the various raw materials were received and also stored in case it is in the open as also from the site where the water discharged was being stored in various depressions within the premises of the plant for testing with regard to its contents. The CGWA was asked to submit the details of their

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analysis with particular reference to the materials which were being used/manufactured in the premises and discharged from the same so as to rule out the possible contamination from any source within the premises of the Respondent No.1.

6. As regards green belt the Respondent No.1 and 2 submitted on 29.9.2015 that they were required to keep an area of 48,468 Sq. meters as green area and that this condition is being complied with. It was further submitted that felling of trees was carried out after receiving the permission granted vide order dated 07.07.2010 and thereafter, an area of 20 acres of MPAKVN was also brought under plantation by planting 3000 trees.
7. On 29.05.2015, we also directed the Director (Medical and Health), Government of MP to constitute a Medical Board with at-least two specialists dealing with respiratory diseases and disorder apart from any other specialist that the Director may deem proper to examine the past and present employees whose details and affidavits were furnished and submitted by the applicant on 08.07.2015.
8. On 07.01.2016, we further directed the Respondent No.1 which is a multinational company producing similar products internationally to submit norms and procedures and safeguards and the conditions under which similar products are being manufactured with similar composition internationally.
9. It was further alleged by the Learned Counsel for the applicant that the Respondent No. 1 Plant is using chemicals and enzymes, AGM, and Sodium Poly Acrylate etc. which are hazardous substances and fall within the category of synthetic organic chemicals requiring

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prior EC in accordance with the notification dtd. 14.09.2006 of MoEF & CC. Applicant has also submitted that in case of similar products being manufactured by M/s Spectrum Chemicals Industry located at Mahsana in Gujarat, the SEIAA (Gujarat) had considered it obligatory to have EC in terms of item no. 5 (f) of the schedule of the notification dated 14.09.2006 as also in the case of M/s RSPL Ltd. located at Sagar in Madhya Pradesh by SEIAA, M.P.

10. In view of above, this Tribunal had on 29.09.2015 ordered the notices to be issued to MoEF & CC to seek clarification from the Ministry. Since no response was received from the Ministry this Tribunal directed that MoEF & CC to respond on the following issues :

1. *whether the substances, compounds and chemicals used in the manufacturing of their products detergents, diapers and napkins in their plant located at Mandideep, District Raichur (M.P.) by the Respondent No. 1 / Company can be termed either separately or collectively as hazardous requiring prior EC in terms of the notification dtd. 14.09.2006 as amended from time to time,*
2. *whether in the light of the use of AGM for manufacturing of sanitary napkins and diapers special care needs to be taken in the matter of their disposal as it is alleged that in many countries AGM and some of its constituents have been categorised as hazardous substances,*
3. *whether special care and protective gear is required to be used by persons handling such raw material which is used by the Respondent No. 1 / Company for the manufacturing of products,*
4. *whether there is any recorded evidence of harmful impact on human as a result of handling of such chemicals particularly respiratory diseases, as it is alleged in the Original Application that some of the workers have suffered such illnesses as a result of handling of such material without proper protective gear,*
5. *since in the entire country there is a scheme provided for sanitary napkins on a large scale, whether the issue of their proper disposal has been considered at any stage and whether any*

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*guidelines have been issued to State Governments and by the Urban Development Department in turn to the local and municipal bodies for taking such precautions in their disposal, so that environmental hazardous or adverse impact on stray animals such as cows and dogs etc. do not occur.*

11. In compliance of our direction the MoEF & CC filed reply affidavit on 16.012.2016 and made following submissions :

S.N.	Issues raised by Hon'ble Tribunal	MoEF & CC response
1.	Whether the substances, compounds and chemicals used in the manufacturing of their products detergents, diapers and napkins in their plant located at Mandideep, District Raichur (M.P) by the Respondent No. 1 Company can be termed either separately or collectively as hazardous requiring prior EC in terms of the notification dtd. 14.09.2006 as amended from time to time,	<ol style="list-style-type: none"> <li>1. The Ministry of Environment, Forest and Climate Change considers the project / activities listed in the schedule to the Environment Impact Assessment (EIA) Notification, 2006 as amended from time to time for grant of Environmental Clearances as per provisions of the notification.</li> <li>2. The EIA Notification, 2006 under entry no. 5 (f) of the Schedule covers "Synthetic organic chemicals industry (dyes &amp; dyes intermediate excluding drug formulations ; synthetic rubbers; basic organic chemicals and chemical intermediaries). Therefore, the manufacture / production of aforesaid chemicals requires prior Environmental Clearances under the provisions of the notification.</li> <li>3. It is submitted that the detergent manufacturing unit uses the synthetic surfactant as basic raw material for enhancing the effectiveness of their product. The synthetic surfactants are synthetic organic chemicals; hence covered under entry no. 5 (f) of the Schedule to the EIA Notification, 2006.</li> <li>4. The Basel Convention on</li> </ol>

		<p>the control of Trans boundary movement of the hazardous waste and their disposal in Annexure 1 at Serial Y-13 has “wastes from production, formulation and use of resin, latex plasticizers, glues/gells adhesives” as hazardous waste</p> <p>5. The non-biodegradable absorbants used in manufacturing of sanitary napkins and synthetic surfactants used in detergents necessitates assessment of its impact on environment and hence EIQ / EMP and appraisal of the project for environmental clearances.</p> <p>6. Whereas, the applicability of the EIA Notification, 2006 to the industries using the synthetic surfactant as raw material for making other products like detergents is not clarified in the EIA Notification 2006.</p> <p>7. In view of this the Ministry has decided to refer the matter to the Expert Committee, constituted by the Ministry to review the provisions of the EIA Notification, 2006 for expert opinion</p>
2.	<p>Whether in the light of the use of AGM for manufacturing of sanitary napkins and diapers special care needs to be taken in the matter of their disposal as it is alleged that in many countries AGM and some of its constituents have been categorised as hazardous substance,</p>	<p>Yes. The State Pollution Control Board while issuing Consent to Operate to any industrial unit imposes appropriate conditions for environmental management. If any unit is reported to be in violation necessary action is taken as per prevailing laws.</p> <p>The hazardous effects of the Absorbent Gelling Materials (AGM) needs thorough examination.</p>
3.	<p>Whether special care and</p>	<p>Yes. The occupational</p>

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	protective gear is required to be used by person handling such raw material which is used by the Respondent No. 1 / Company for the manufacturing of products,	workers need special care and protective gear while handling of chemical constituents.
4.	Whether there is any recorded evidence of harmful impact on human as a result of handling of such chemicals particularly respiratory diseases, as it is alleged in the Original Application that some of the workers have suffered such illnesses as a result of handling of such material without proper protective gear,	The toxicity of any chemical depends upon the dose and time of exposure to that chemical. There are some studies indicating skin and respiratory disorders due to long exposure of such chemicals.
5.	Since in the entire country there is a scheme provided for sanitary napkins on a large scale, whether the issue of their proper disposal has been considered at any stage and whether any guidelines have been issued to state governments and by the Urban Development Department in turn to the local and municipal bodies for taking such precautions in their disposal, so that environmental hazardous or adverse impact on stray animals such as cows and dogs etc. do not occur.	Ministry of Health and Family Welfare has launched Menstrual Hygiene Scheme (MHS) under which one of the major objective is to ensure safe disposal of sanitary napkins in an environmentally friendly manner. The Central Pollution Control Board (CPCB) has classed this as municipal solid waste. The debate is on regarding treating this as a separate stream of waste. The issue is not settled yet.

12. The MoEF made further submissions on 18.01.2017 wherein it is stated that as under :

- a. *Without prejudice, it is submitted that the answering respondent No.1 do not manufacture any of the substance as notified in entry no. 5 (f) of the EIA notification, 2006, and as such, do not require any environmental clearance.*
- b. *The comparison sought to be made by the Applicant with the environmental clearance granted to one M/s Spectrum Chemical Industries and Shri Vinod Khosia (M/s RSPL Limited) is completely out of context and*

- absolutely irrelevant for the instant Original Application. As a matter of fact, the aforesaid two environmental clearances have been relied upon by the Applicant, without even carrying out any basic necessary checks, and whether there is any similarity between the products being manufactured.*
- c. *Category 5 (f) in this regard provides as under: Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemical intermediates)*
- d. *It is submitted that none of the aforesaid manufacturing operations are being carried out at the Mandideep manufacturing unit of the answering respondent. As such, the question of obtaining environmental clearances by the answering respondent does not arise. On the contrary, a bare look at the environmental clearance granted to M/s Spectrum Chemical Industries would reveal that the application was made specifically for "manufacturing Synthetic organic chemical.. Similarly, the second environmental clearance annexed along with application was in respect of "Optical Brighter" once again a synthetic organic chemical requiring environmental clearance under 5 (f) of the notification.*
- e. *Furthermore, in so far as reference to Basal convention is concerned, the same is once again out of context, inasmuch, the answering respondent do not produce or formulate resins, latex, plasticizers, glue/adhesives hence do not generate hazardous waste arrayed in Annexure 1 at Sr. No. Y-13 under this convention.*
- f. *It is further submitted that for production of detergent the unit is buying all the required Raw materials including the linear Alkyl Benzene Sulphonic Acid (LABSA) from various vendors. Only Labsa and perfumes which are added as liquid and all other raw materials come in the form of powder or granules. These raw materials in their procured form are mixed in desired proportion for production at plant. LABSA is heated and mixed in a mixer to attain good impregnation into other powdery and granular materials. This mixing also agglomerates the raw materials. The mixed agglomerate after cooling and grinding is sieved to get required mesh size of the powder mix. Post this to impart specific useful*

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*characteristics a small quantity of perfumes, enzymes and the like materials are admixed with the sieved powder in another mixer. At this stage the detergent powder is ready for packaging and dispatch.*

- g. In view of the aforesaid process being followed in the manufacturing unit of the answering respondent, the unit performs no such activity as listed in the schedule to the EIA notification dated September 14, 2006 requiring any prior environmental clearance.*
- h. The aforesaid fact is also fortified by the reply filed by the respondent No.7, MPPCB, which has stated in its reply very clearly that the manufacturing process adopted and the raw materials used by the answering respondent to not require any prior environmental clearance under the EIA notification, 2006.*
- i. Furthermore, the MPPCB has already renewed the Consent to Operate of answering respondent, under the Air (Prevention and Control of Pollution) Act as well as Water (Prevention and Control of Pollution) Act, valid up to 31.08.2017. The said renewal is a further proof of the fact that no prior environmental clearance under the EIA notification, 2006 is required by the answering respondent.*
- j. In so far as the manufacturing of sanitary napkins and diapers are concerned, around 15 different raw materials are needed such as Dry-lap, Nonwovens, paper poly plastics, elastics, glues and adsorbant & gelling material. The entire process happens with only physical application and no chemical reaction takes place. All operating unit operations in manufacturing line are akin to machine used for textile and garment production involving cutting, fluffing, gluing, trimming and sizing, etc. post these physical operation the procured raw materials are converted to sanitary napkins or diapers, and are not listed in the schedule to EIA notification, 2006 and therefore, no prior environmental clearance is required.*
- k. It is further submitted that the answering respondent No. 1 M/s Procter and Gamble Home Product Limited do not manufacture any hazardous substances. The detergent powder, baby diapers and female sanitary napkins do not fall within the list of categorized hazardous products, as provided in the Hazardous Chemical Rules. Even otherwise, the respondent No.1 is only involved in the process of mixing the components/ingredients to reach to*

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*the final product known as detergent powder, baby diapers and female sanitary napkins, which are neither categorized as hazardous substance not categorized as chemical substance.*

- l. The Technical Guidance Manual for Synthetic Chemical Industry, illustrate different types of products, which come within the purview of the EIA notification vis-a-vis Synthetic Chemical Industry, but none of the products manufactured by respondent No.1 fall within the list of Synthetic Chemical Industry. It is further relevant to mention that the manual covers certain set of detergents within the category of synthetic chemicals, but the respondent No. 1 does not manufacture such detergents nor is the formulation of the detergents manufactured by respondent No.1 similar to those covered by the manual. The respondent no.1 is engaged in the production of detergents, which are Linear Alkylbenzene Sulphonic Acid.*
- m. Furthermore, Environmental clearance is not required as plant is an industrial shed and industrial sheds are exempt from 2006 notification vide clarification issued by MoEF circular issued on 22.12.2014, the same is also supported by the reply of respondent No.7 filed on the records of this Hon'ble Tribunal.*
- n. Moreover, PCB has regularly issued CTE/CTO to P&G and has never asked P&G to obtain pre-environmental clearance. In 2012, PCB had highlighted that EC is required for DG sets, accordingly, P&G had applied to SEAC for grant of EC. The application was kept pending wherein the MoEF came out with a clarification that EC is not required for DG sets in captive use.*
- o. It is further clarified that the answering respondent No.1 does not manufacture surfactant or any other raw material which is covered under the EIA notification.*
- p. The MoEF has not placed on record any report of the Expert Committee as stated to be constituted by it in sub-Para 7. Once the said report is made available to the respondent No.1, the answering respondent No.1 seeks indulgence of this Hon'ble Tribunal to reply to the same.*

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13. The Respondent No. 5 MPSEIAA has also submitted that the AGM used by the unit are not mentioned in the hazardous waste chemical list and in any case the Respondent Plant has been obtaining and maintaining due authorization for hazardous substances under the Hazardous and Other Waste (Management and Transboundary Movements) Rules, 2016. It has also been submitted that the Respondent Plant follows required safety measures for its employees and contractors and they conduct regular medical test for enzymes monitoring and AGM monitoring.
14. In compliance of our order dtd. 29.09.2015 the Respondent No. 7 MPPCB had filed inspection report of the plant on 13.11.2015 along with the ground water quality assessment by CGWB, North Central Region Bhopal. It has been stated that before expansion of the plant 62,366 sq. mt. (25.30% of the area) was being maintained as green belt and after expansion the extent of green belt was 54,832 sq. mt. (22.30% of the area). Besides, Respondent No. 1 / Plant had planted 1164 trees along the boundary of the factory premises. Apart from this Respondent No. 1 plant was allotted additional area of 20 acres near NH-12 for plantation and the Respondent had planted 3000 trees in that area. The photographs of the plantation done was also produced before us.
15. MPPCB has made following observations in their inspection report
- a. *Consent for the expansion of the plant was granted by the MPPCB on 14.02.2013*
  - b. *Unit obtained permission to cut the trees from the competent authorities in the site of expansion of the plant.*
  - c. *There is a water pond made by the industry to improve the water table near newly constructed shed*

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*but the inspection team did not find anywhere the industry had disposed or discarded surfactant and other products on land and they also did not observe any waste material being buried under ground.*

- d. *ETP & STP with capacity of 100 KLD was found to be operational and no treated / untreated water was seen to be going out of the factory premises.*

16. In the report submitted by the Central Ground Water Board, North Central Region Bhopal on "Ground Water Quality Assessment in and around Procter & Gamble Mandideep, District Raisen" it has been stated that -

*"It may be concisely stated that the concentrations of different parameters EC, Carbonate, Bicarbonate, Sulphate, Nitrate,*

*Fluoride, Calcium, Magnesium, Total Hardness, Manganese*

*and Arsenic in water samples collected in and around P & G*

*Hygiene and Health Care Ltd, Mandideep are within*

*permissible limits of BIS standards for drinking water.*

*However, 3 out of 10 locations (HP1, HP2 and BW6)*

*reported NO<sub>3</sub> concentration greater than BIS desirable limit*

*(45 mg/l). At 7 locations the iron concentrations is observed to*

*be more than prescribed desirable limits of BIS (0.3 mg/l)''.*

17. As stated herein above the Applicant had alleged that Respondent No. 1 industry is manufacturing products which are similar to those manufactured by M/s Spectrum Chemicals Ltd. and M/s RSPL Ltd. for which EC was granted by Gujrat SEIAA and MP SEIAA respectively and, therefore, Respondent No. 1 would also require EC under category 5 (f) of the EIA notification of 2006. The Respondent

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No. 7 MPPCB in their reply filed on 22.04.2016 has in Para 3, 4, & 5 submitted as below :

3. That, the answering respondent carried out a detailed analysis of the documents enclosed with the Miscellaneous Application and its similarity with the industry of the Respondent No.1. It has been found that the requirement to obtain the Environmental Clearance arises when the chemical LABSA (Linear Alkyl Benzene Sulphonic Acid) is manufactured indigenously. That, M/s Spectrum Chemicals Ltd as well as M/s RSPL Ltd manufacture the Linear Alkyl Benzene Sulphonic Acid (LABSA) chemical in their own factory and thereby are required to obtain Environmental Clearance under EIA Notification 2006.
4. On the other hand, the Respondent No.1 industry is purchasing all the raw material including Linear Alkyl Benzene Sulphonic Acid (LABSA) from outside vendors and is not manufacturing the same in its own industry. All the raw materials are mixed in a mixer in desired proportions. The LABSA is first heated and then mixed in the same mixer to attain better impregnation.
5. Therefore, in view of the manufacturing process adopted and the raw materials used by the respondent No.1, the Respondent No.1 industry is not required to obtain Environmental Clearance under the EIA Notification 2006.

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18. It is further submitted that health, safety and environment audit is carried out on annual basis in every single manufacturing unit of the Respondent Plant. The Respondent Plant has in their reply dtd. 18.01.2017 stated in Para 5 (4) that the MoEF has not pointed out any recorded evidence of harmful impact on human as a result on handling of chemicals.
19. In terms of our order dtd. 29.09.2015 regarding medical examination of 41 persons who had submitted their affidavits, it has been stated by the Respondent Plant that in complete violation of direction 11 new persons were brought in whose affidavits were neither filed before this Tribunal nor any prior permission was sought by the Applicant before introducing them before the medical board. Name of 11 persons are mentioned below :

Sr. No	Name
1	Guddu Lal
2	Komal Prasad
3	Mahendra Kumar
4	Suni Rai
5	Dharam Das
6	Raj Kumar
7	Deepak Das (17 yrs old)
8	Deepak Sen
9	Balbir Vishavkarma
10	Raghuveer Singh
11	Jitender Sahu

It has been stated that there were no specific details like period of employment in respect of 11 new persons mentioned above.

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20. It was further submitted by the Respondent No.1 that 9 Persons who were there in the original list were not present before the medical board. These 9 persons are as follows:

Sr. No	Name
1	Sanu
2	Supyal Sen
3	Pradeep Nagwanshi (s/o Surat Singh)
4	Santosh Rajput
5	Sanjay Meena
6	Pradeep Nagvanshi (s/o Bihari Lal)
7	Moolchand
8	Komal Singh
9	Devi Singh

21. Out of the 41 persons examined only 7 persons were diagnosed with some abnormality. However, cause of such abnormality is not attributable to the Respondent Plant. The remarks of the medical board with respect to these 7 person are as follows :

Name	Father name	Doctor's Analysis
Santosh Rajput	Gopal Singh Rajput	Mild persistent bronchial asthma with Seasonal Allergy. Means that in a particular season the asthma may be aggravated.
Munna Lal	Hardayal	Moderate persistent bronchial asthma with seasonal allergy.
Rajkumar Raj	Hari Singh	Mild persistent bronchial asthma with seasonal allergy.
Ramgopal Rai	Ram Rathan Rai	Mild intermittent bronchial asthma with seasonal allergy. Patient has history of working in Cotton industry at Present. Also, there is family history of naso-bronchial allergy among other family member, sibling, brother, wife
Ghanshyam Pal	Nirbhay Singh	Mild persistent bronchial asthma with seasonal allergy.

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Guddu Lal	Hardyal Signh	Mild persistent bronchial asthma with seasonal allergy.
Komal Prasad	Pussulal	Mild persistent bronchial asthma with seasonal allergy with history of seasonal urticaria in summer. Patient had been working in alleged company.

22. In view of the submissions made herein above by the MPPCB, MPSEIAA, Central Ground Water Authority and Ministry of Environment Forests & Climate Change, Govt. of India it is amply clear that the Respondent No. 1 Plant did not require prior EC for using chemicals, compounds and raw materials in the manufacture of home products, baby care products, sanitary napkins and other products in their plant situated at Mandideep. And also that the plant has been taking all the safety measures for protection of their workers in the plant and that the injuries and diseases suffered by their past and current employees cannot be attributed to the manufacturing process adopted by the Plant. It is also clear that alternate steps have been taken by the Respondent No. 1 Plant with respect to creating and maintaining green belt and that they have taken all the permissions required under law for cutting the tree in the premises of the plant.
23. Having held so in view of the clear statement of the MoEF regarding the requirement of EC not being applicable in the case of the Respondent No. 1 and that entry 5 (f) of the EIA notification 2006 strictly does not apply, however, in the facts and circumstances and keeping in view the precautionary principle we would direct the MPPCB to suggest in consultation with the Respondent No. 1 precautionary measures as are applicable where entry 5 (f) applies. In view of the fact that the final product of the Respondent

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No. 1 is manufactured out of some of the components to which an industry manufacturing the same requires EC under entry 5 (f) of the EIA notification 2006. In spite of the fact these are not manufactured or produced by the Respondent No. 1, however, we feel that even in the event of handling of the same precautions need to be adopted and the PCB shall, therefore, suggest to the Respondent No. 1 industry to take adequate precautions.

24. In addition to the above, it was given out during the course of hearing that for handling of such material out of which the products of the Respondent No. 1 are manufactured labour are engaged through the resource person / contractor engaged by the Respondent No. 1. The Respondent No. 1 is, therefore, duty bound that such labour which is engaged should be adequately explained the hazards if any that they may encounter while handling such material and further that the labour handling such material should watch out for and report any particular symptoms that would indicate any ill effects of handling of such materials. Needless to say that, by way of abundant precautions, such labour shall be provided by the resource person and / or the Respondent No. 1 protective equipments for handling such material including gloves and masks etc. so as to prevent inhalation or contamination in any manner as some of the persons who were medically examined were found to be suffering from respiratory ailments. We have no conclusive evidence before us to come to the conclusion that these persons have contracted said ailments as a result of the handling of such materials as it may be the case of coincidence as we have no specific evidence before as to the duration for which

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such persons were engaged for handling such material or whether it was a case of past history or any other cause. Be that as it may, we would still direct that adequate precautions and preventive measures be taken by the Respondent No. 1 as well as the resource persons who provide such labour on contract or in case they are engaged by direct employment by the Respondent No. 1 they shall also be provided such equipments.

25. Apart from the above, we would further direct that every fortnight such labour which have been engaged shall be medically examined at the instance of the Respondent No. 1 for ensuring that the labour engaged for handling such material which is the raw material for the manufacture of the goods is not in any manner found to be suffering from any of the ill effects of handling such material. In case they are found to be suffering from any such ailments their treatment shall be the responsibility of the Respondent No. 1 and the Respondent No. 1 shall bear the entire cost of the same.
26. So far as the disposal of sanitary items is concerned, since the sanitary waste has been classed as Municipal Solid Waste by the CPCB / MoEF the Solid Waste Management Rules 2016 shall be applicable to the Respondent No. 1. Therefore, we also direct that the Respondent No. 1 shall comply with the Solid Waste Management Rules, 2016 by providing a disposal pouch or wrapper along with the packaged sanitary products for safe and proper disposal of used sanitary napkins and diapers. It shall also be obligatory for the Respondent No. 1 to undertake public awareness measures for disposal of used napkins and diapers in prescribed manner.

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27. In view of the same, no further directions are required to be issued in this Original Application No. 30/2015. Accordingly, the O.A. No. 30/2015 stands **disposed of**. The MPPCB Respondent No. 7 shall take necessary steps for issuance the directions in consultation with the Respondent No. 1 for taking the aforesaid precautions as directed hereinabove.

(Mr. Justice Dalip Singh)  
Judicial Member

(Dr. S.S. Garbyal)  
Expert Member

Bhopal :  
3<sup>rd</sup> August, 2017

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## ANNEXURE R-5

Item No. 03 (Through VC-Bhopal)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Review Application No. 08/2017 (CZ)

In

Original Application No.34/2014 (CZ)

Proctor & Gamble Home Products Pvt. Ltd. Applicant(s)  
Versus

P.C. Sharma Respondent(s)

Date of hearing: 03.12.2019

**CORAM:****HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Mr. Ankur Mittal, Advocate

**ORDER**

An original application (O.A.30/2015) was filed by the applicant- P.C. Sharma against various respondents named therein, including respondent no.1- M/s. Proctor & Gamble Home Products Pvt. Ltd. The said application came to be decided on 03.08.2017 with the directions, only the relevant directions for the purpose of review application are being reproduced which are, as follow:-

“24. Apart from the above, we would further direct that every fortnight such labour which have been engaged shall be medically examined at the instance of the Respondent No. 1 for ensuring that the labour engaged for handling such material which is the raw

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material for the manufacture of the goods is not in any manner found to be suffering from any of the ill effects of handling such material. In case they are found to be suffering from any such ailments their treatment shall be the responsibility of the Respondent No. 1 and the Respondent No. 1 shall bear the entire cost of the same.

26. So far as the disposal of sanitary items is concerned, since the sanitary waste has been classed as Municipal Solid Waste by the CPCB / MoEF the Solid Waste Management Rules 2016 shall be applicable to the Respondent No. 1. Therefore, we also direct that the Respondent No. 1 shall comply with the Solid Waste Management Rules, 2016 by providing a disposal pouch or wrapper along with the packaged sanitary products for safe and proper disposal of used sanitary napkins and diapers. It shall also be obligatory for the Respondent No. 1 to undertake public awareness measures for disposal of used napkins and diapers in prescribed manner.”

It is said that after pronouncement of the judgment in the original application, the applicant had filed a review application (08/2017) on 13.10.2017. The review application was also accompanied by an application for condonation of delay on which notices were issued by the Tribunal on 09.11.2017. After service having been effected

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on the respondents, the Tribunal considered the application on 12.01.2018 and allowed the same

We are also informed that the review applicant (original respondent no.1) had also filed an appeal against the order of the Tribunal dated 03.08.2017 before the Hon'ble Supreme Court of India. The said appeal was dismissed as withdrawn on 26.11.2018 with liberty to pursue the remedy of review.

Now, this review application has come up before us for consideration. The primary contentions raised for the review application are on two counts. Firstly, in respect of the of direction given by the Tribunal in para 25 of the judgment, that every fortnight the labour engaged in the work shall be medically examined at the instance of respondent no.1 for ensuring that the labour engaged for handling raw material for manufacture of the goods, is not in any manner found to be suffering from any of the ill effects of handling the materials. Secondly, the review sought is in respect of the directions issued to respondent no.1 for providing a disposal pouch and wrapper along with the packaged sanitary products for safe and proper disposal of used sanitary napkins and diapers.

In so far as directions with regard to fortnightly medical examination of the labour is concerned, it has been contended before us that such an exercise would be burdensome to the respondent and to comply with such

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direction it would not be practical as large number of labour is engaged.

As regard providing of disposal pouch and wrapper, it has been submitted that respondent no. 1 is providing tap for use of sanitary napkins and diapers

We have given our thoughtful consideration to submissions made in respect of the grounds of review of the order dated 03.08.2017, particularly the directions given in para 25 and 26. We are afraid that the contentions raised for the purpose of reviewing the order of the Tribunal, do not convince us and in our considered opinion they also do not fall within the purview and scope of reviewing the order passed on 03.08.2017. So far as contention for fortnight medical examination of the labour is concerned, it is clear in the direction itself that fortnight medical examination of the labour is to be conducted in respect of those who are handling with the raw material.

Moreover, it was submitted on behalf of respondent no.1 itself that the unit has a doctor in its team available at the site throughout. Therefore to comply with the order of medical examination fortnightly in respect only the labour who are handling the raw material should not be a matter of difficulty for the respondents. Above all such steps of medical examination is in interest and benefit of the labour who are handing the raw material, as a precaution and for their safety.

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The direction with regard to providing of disposal of pouch and wrapper is concerned, needless to say that it is for safe and proper disposal of used sanitary napkins and diapers. According to the review applicant they are using pouch with a tape. In our considered view in case of handling of used sanitary napkins and diapers, it is advisable to take proper and complete steps so that no adverse effect could follow on the user and the environment. The relevant rules, in this regard are to be strictly complied with.

In view of the above, we are of the considered opinion that submissions made for reviewing the order dated 03.08.2017 are devoid of merits. Furthermore, there is no error apparent on the face of the record so as to fall within the purview and scope of review.

Consequently, review application is dismissed with no order as to cost.

Justice Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

JG

*Abhinav*  
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ANNEXURE R-6

CAD.46725/2019

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ITEM NO.16

COURT NO.7

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No.46725/2019

(Arising out of impugned final judgment and order dated 03-08-2017 in OA No. 30/2015 03-12-2019 in RA No.08/2017 passed by the National Green Tribunal)

M/S PROCTER AND GAMBLE HOME PRODUCTS  
LIMITED (NOW KNOWN AS PROCTER AND GAMBLE  
HOME PRODUCTS PRIVATE LIMITED)

Petitioner(s)

VERSUS

PC SHARMA & ORS.

Respondent(s)

(With appln.(s) for c/delay in filing CA, exemption from filing c/c of the impugned judgment and ex-parte stay)

Date : 27-01-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.  
Mr. K.V. Vishwanathan, Sr. Adv.  
Mr. Nikhil Rohatgi, Adv.  
Mr. Kapil Arora, Adv.  
Mr. Juvraj Singh Bindra, Adv.  
Mr. Ankur Mittal, Adv.  
Ms. Palak Nagar, Adv.  
for M/s. Cyril Amarchand Mangaldas

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Delay condoned.

Issue notice, returnable in four weeks.

41

CAD.46725/2019

2

Dasti service be effected on the respondents in addition.

Liberty is granted to the petitioner to file additional documents.

*Status quo*, as on today, shall remain in force until further orders.

(Chetan Kumar)  
A.R. -cum-P.S.

(Saroj Kumari Gaur)  
Court Master

Abhinav  
// Type Copy //

**Purva Pravin Bora vs MoEF & CC & Ors. O.A. No. 180/2017(WZ)- Principal Bench**

1 message

**Karan Kohli** <karan.kohli@gslc.in>

7 November 2020 at 15:08

To: DILIP DHARMADHIKARI &lt;dsdharmadhikari@gmail.com&gt;

Dear Dilip,

In pursuance of the directions passed by the Hon'ble National Green Tribunal in the captioned matter on 19.10.2020, please find attached the short counter affidavit on behalf of our client, Johnson & Johnson Private Limited which has been arrayed as Respondent No. 8 in the captioned Original Appeal.

Our client has reserved its right to file a detailed/ additional counter affidavit in the present matter, due to paucity of time.

In case of any query, you may contact the undersigned or Mr. Abhinav Shrivastava, Partner, GSL Chambers at + 91 9811954243 or Mr. Arjun Garg, Partner, GSL Chambers at + 91 9971796913.

Thanks &amp; Regards

Karan Kohli

GSL Chambers

On behalf of Johnson &amp; Johnson Private Limited/ Respondent No. 8

**Karan Kohli**

Associate, GSL Chambers

E-28, L.G.F. &amp; Second Floor,

Lajpat Nagar-III, New Delhi-110024

(M) - +91-9625779611

(O) - 011-4654.4243/43516615

E: [karan.kohli@gslc.in](mailto:karan.kohli@gslc.in)

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 **Final Affidavit.pdf**  
4352K

**Purva Pravin Bora vs MoEF & CC & Ors. O.A. No. 180/2017(WZ)- Principal Bench**

2 messages

**43****Karan Kohli** <karan.kohli@gslc.in>

7 November 2020 at 15:07

To: secy-moef@nic.in, rahul.garg@mgklegal.com, adv.manasi.joshi@outlook.com, PMCMCU@gmail.com, sameer.khale@mgklegal.com, kapil.arora@cyrilshroff.com, ganesh.r@pg.com, paralikar.amogh@gmail.com, ropune@mpcb.gov.in  
Cc: Abhinav Shrivastava <abhinav.shrivastava@gslc.in>, Arjun Garg <arjun.garg@gslc.in>

Dear All,

In pursuance of the directions passed by the Hon'ble National Green Tribunal in the captioned matter on 19.10.2020, please find attached the short counter affidavit on behalf of our client, Johnson & Johnson Private Limited which has been arrayed as Respondent No. 8 in the captioned Original Appeal.

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Thanks &amp; Regards

Karan Kohli

GSL Chambers

On behalf of Johnson &amp; Johnson Private Limited/ Respondent No. 8

**Karan Kohli**

Associate, GSL Chambers

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**Final Affidavit.pdf**

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