

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE**

**ORIGINAL APPLICATION No.3/2017(WZ)**

**CORAM:**

**Hon'ble Shri Justice U.D. Salvi  
(Judicial Member)**

**Hon'ble Prof. (Dr.) P.C. Mishra  
(Expert Member)**

**In the matter of:**

**The Maharashtra Pollution Control  
Board,**

Through its Member Secretary,  
Kalpataru Building, Sion, Mumbai.

**.....Applicant**

**Versus**

**1. Union of India,**

Through its Secretary,  
Ministry of Environment, Forest &  
Climate Change,  
Indira Paryavaran Bhavan, Aliganj, Jor  
Bagh Road, New Delhi – 110 003.

**2. The Central Pollution Control  
Board**

Through its Chairman,  
Parivesh Bhawan, CBD  
Complex, East Arjun Nagar,  
New Delhi – 110 032.

**3. The Maharashtra Industrial  
Development Corporation**

Through its Chairman,  
Having its office at Mahakali Caves  
Road,  
Andheri (East), Mumbai – 400 003.

**.....Respondents**

**Counsel for Applicant:**

Mrs. Manasi Joshi, Advocate.

**Counsel for Respondents**

Mr. Milind Mahajan, Advocate for Respondent No.1.

Mr. Rahul Andhale, Advocate for Respondent No.2.

Ms. Dakshaja Yeolekar, Advocate for Respondent No.3

**P.C.**

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**Date: 1<sup>st</sup> May, 2017**

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**ORAL JUDGMENT**

1. A substantial question of environment as to whether the proposal/s for grant of consent to establish/operate the industries/industrial units with the provision of zero liquid discharge (ZLD) in the critically polluted area situated at Additional Ambernath, Dombivli Phase-I and Phase - II wherein the Common Effluent Treatment Plants (CETPs) are found to be not performing upto the standards and directions have been issued by Central Pollution Control Board (CPCB) to the Applicant – Maharashtra Pollution Control Board (MPCB), particularly, not to permit expansion/establishment in its area where the CETPs are not complying with the required standards and do not have adequate hydraulic load capacities vide Judgment dated 2<sup>nd</sup> July, 2015 in ***O.A. No.37/2013 (Vanashakt Public Trust and Anr. Vs. Maharashtra Pollution Control Board & Ors.)*** can be considered.

**2.** The Applicant – MPCB prays that in view of the modified directions dated 31<sup>st</sup> March, 2016 issued by Respondent No.2 – Central Pollution Control Board (CPCB): “except for such cases, which do not impact performance of CETP, such as;

(a) *Not resulting in increase in pollution load such as industries generating nil effluent, 100% effluent recycling units, industries generating only concentrated steam disposed at Common Hazardous Waste Treatment and Disposal Facility”*

the Board be allowed to consider the applications for grant of Consent to operate/establish/expand moved by the industries.

**3.** The Respondent Nos.2 and 3 have filed replies. No reply has been filed by Respondent No.1 – Ministry of Environment, Forest & Climate Change.

**4.** We had disposed off the Application No.37/2013 moved by Vanashakti Public Trust seeking directions to the MPCB to close all polluting industries discharging untreated effluent into the River Ulhas and to monitor the work of CETPs and take stringent actions to ensure that no untreated effluent are discharged into the River Ulhas in order to preserve the river in pristine condition with following directions:

**1)** *The directions issued by CPCB vide letter dated 02-09-2008 shall be strictly enforced by MPCB in case of the CETPs at Dombivili and Ambarnath till the time these CETPs are effectively operational complying the*

standards and such report is submitted to the Tribunal by MPCB along with substantial time series data and observations. The directions issued by CPCB are reproduced for clarity:

**a)** Initiate monitoring program for all CETPs at least every quarter and take follow up action against industries/CETPs not complying with the prescribed standards.

**b)** Not to permit expansion/establishment of the industrial units in the areas where the associated CETPs are not complying with the required standards and where such CETPs do not have adequate hydraulic load capacities. c) Submit action report every quarter on (1) and (2) above within one month of every quarter to CPCB.

**2)** The CPCB shall ensure the effective implementation of its directions referred to above, and also ensure that the action plan submitted by MPCB is enforced in next six (6) months without fail. CPCB shall verify the compliance of CETPs and also, conduct random inspection of major industries for ensuring compliance on monthly basis till its above directions are complied with. CPCB shall independently submit the compliance report on monthly basis to Registry of Tribunal till the CETP performance is as per consent conditions for a period of 3 months and the action plan is implemented, which will result into reduction of CEPI index.

**3)** The Dombivili CETP (total 16.5 MLD capacity) is directed to pay the restitution and restoration amount of Rs.30 crores (Rs. Thirty crores) based on the excessive COD load released into the water environment. The Ambarnath CETP (total capacity of 7 MLD, and operated at 3 MLD) is directed to pay Rs.15 Crores (Rs. fifteen crores) as restoration and restitution costs. This amount shall be deposited with Divisional Commissioner, Kokan Revenue Division, CBD Belapur, within period of four (4) weeks, failing which the Divisional Commissioner shall submit the

*report to the Registry for further penal action against the CETP office bearers as permissible under the Law.*

**4)** *MPCB shall deposit the funds received from forfeiture of BG in the above industrial areas in last five (5) years with Divisional Commissioner, Konkan Region within four (4) weeks for the above restitution and restoration works.*

**5)** *MIDC shall commission both the effluent disposal systems in 24 (twenty four) months, and submit BG of Rs.10 crore (Rs. Ten crores) to MPCB to ensure compliance.*

**6)** *The Ulhasnagar Municipal Corporation and Kalyan-Dombivali Corporation shall deposit Rs.15 Crore (Rs. Fifteen Crores) each with Divisional Commissioner for above restoration and restitution measures. The Kulgaon Badlapur Municipal Council and Ambarnath Municipal Council shall pay Rs.5 crore (Rs. Five crore) each as restitution and restoration cost with Divisional Commissioner, Konkan Region. These amounts shall be paid within six (six) weeks.*

**7)** *The Divisional Commissioner shall deposit these funds in special escrow account and use this amount for implementation of scientific programme for cleaning of the River (Ulhas and Waldhuni) as per the plan submitted earlier and to ensure that no further Riverine pollution would occur hereafter and other kind of restoration and remedial measures like removal of sludge accumulated in the river/nullah, beautification of river banks in order to protect the river from any the unauthorized dumping of wastes and effluents in River Waldhuni and Ulhas estuary. Such works shall be completed in next 18 (eighteen) months. CPCB/MPCB shall provide necessary assistance for this purpose.*

**8)** *A committee under Chairmanship of Divisional Commissioner shall be constituted for this purpose comprising of Collector, Thane; Member Secretary*

MPCB; Municipal Commissioners of Kalyan-Dombivali Municipal Corporation; Chief Engineer Irrigation department, Chief Officer of Kulgaon Badlapur and Ambarnath Municipal Council; Deputy Commissioner of Police, and Deputy Chief Executive Officer Envt, MIDC. The Committee may adopt suitable experts or other government agencies for effective planning and implementation of such restitution and restoration works.

**9)** The above committees shall submit the action plan to complete above directions in next six (6) weeks including preventive, remedial and restoration measures.

**10)** Chief Secretary of Maharashtra shall ensure that all four (4) urban local bodies i.e. Kalyan Dombivili Municipal Corporation, Kulgaon Badlapur Municipal Council, Ulhasnagar Municipal Corporation, Ambarnath Municipal Council provide required STP capacity in phased manner within next twenty four (24) months and they shall submit a comprehensive action plan along with provision of funds for sewage treatment and disposal system to the Divisional Commissioner and Member Secretary MPCB in four (4) weeks. In case of non-submission of such plan in satisfactory manner, Member Secretary MPCB shall initiate urgent steps to provide such STPs as per provisions of Section 30 of Water (Prevention and Control of Pollution) Act, 1974 and initiate credible legal action against the municipal bodies, besides reporting the matter to MCZMA for suitable action at their end. The Divisional Commissioner may take suitable action against these Corporations and Councils under the provisions of Municipal Acts, including taking over the Corporation and/or disqualification of Members, etc. as deemed necessary.

**10)** The Respondent No.1, 4, 5 and 6 shall pay litigation costs of Rs.25000/- (Rs. Twenty five thousand) each to the Applicants.”

5. These directions were passed considering the fact that CETPs, which are meant to ensure treatment of effluents fulfilling the prescribed standards, are not performing upto the standards and have no capacity to deal with the hydraulic load which the industries transfer by way of effluent discharge.

6. Now the Applicant – Maharashtra Pollution Control Board is proposing to consider the applications for grant of Consent to Establish, Consent to Operate and Consent to Expand the industrial activities in the said area moved by the industries which are undertaking not to transfer any hydraulic load on the CETPs by way of effluent discharge upon adopting zero liquid discharge mechanism.

7. Respondent No.2 – Central Pollution Control Board in its reply submitted that it had issued modified directions vide letter dated 31<sup>st</sup> March, 2016 as follows:

“ Not to permit establishment/expansion of industrial units in the areas where the associated CETPs are not complying with the specified standards or where such CETPs do not have adequate hydraulic capacities, except for such cases which do not impact performance of the CETP, such as:

- (a) Not resulting in increase in pollution load such as industries generating nil effluents, 100% effluents recycling units, industries generating only concentrated stream disposed at Common

Hazardous Waste Treatment and Disposal Facility.

(b) CETP has unutilized hydraulic capacity, and the effluent of new industry/ expansion will help in improving the performance of the CETP.”

Central Pollution Control Board further submits that in view of further directions Maharashtra Pollution Control Board may be allowed to take appropriate decision with respect to grant of consents to the industries which fulfil the stipulated conditions/situations wherein the performance of CETP does not get impacted adversely. This stand of the Central Pollution Control Board appeals to the reason inasmuch as CETPs which are already overburdened or malfunctioning are not likely to be impacted by establishment or operation of industries as they will not contribute any additional pollution load to CETPs i.e attaining zero liquid discharge having 100% effluents recycling units and industries generating only concentrated stream disposal at Common Hazardous Waste Treatment and Disposal Facility.

**8.** In such circumstances the substantial question thus raised in the application needs to be answered affirmatively so as to be in favour of sustainable development i.e. in consonance with the modified directions of the Central Pollution Control Board.

**9.** We have, therefore, no hesitation in allowing this application with following directions:



(1) Liberty is granted to the Maharashtra Pollution Control Board to consider the proposals of the industries in terms of the modified directions of Central Pollution Control Board vide letter dated 31<sup>st</sup> March, 2016 in accordance with law.

(2) Consent Appraisal Committee of Maharashtra Pollution Control Board may consider use of the sewage water by such industries after treatment by their CETPs for industrial activities.

(3) Consent Appraisal Committee of Maharashtra Pollution Control Board shall ensure that industries seeking Consent to Establish/Operate or Expansion shall have their captive ETPs and shall not discharge any effluent treated or untreated to CETPs or anywhere else.

**10. Application No.3/2017 stands disposed of accordingly.**

....., **JM**  
**(Justice U.D. Salvi)**

....., **EM**  
**(Prof. (Dr.) P.C. Mishra)**

**Date : 1st May, 2017.**  
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