

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

M.A.No.5 of 2015

APPLICATION NO.38 OF 2014

CORAM:

**HON'BLE SHRI JUSTICE V.R. KINGAONKAR
(Judicial Member)
HON'BLE DR. AJAY A.DESHPANDE
(Expert Member)**

B E T W E E N:

Shri. VISHWAS MORE

Chinchkhed Road, Pimpalgaon Baswant,
Taluka Niphad, District Nashik-422209.

.....**APPLICANT**

A N D

- 1. Krishi Utpanna Bazar Samitee,
Pimpalgaon Bswant,
Taluka Niphad, District Nashik-422209.
Person Diliprao Shankarrao Banker,
Sabhapati,
Phone: 02550-250768,251223/253232
T/Fax: 02550-253232
Email: apmcpb@rediffmail.com**
- 2. The Secretary,
Ministry of Environment & Forests,
Government of India (MoEF)
CGO Complex, Lodhi Road,
New Delhi-110003.**
- 3. THE CHAIRMAN,
STATE LEVEL ENVIRONMENTAL IMPACT
ASSESSMENT AUTHORITY (SEIAA),
C/o Secretary Environment,
Environment Department,
Govt. of Maharashtra,
Room No.217, (Annexe) Mantralaya,**

Madam Cama Road, Mumbai400032.

4. **THE CHAIRMAN,
STATE LEVEL ENVIRONMENTAL IMPACT
ASSESSMENT AUTHORITY (SEIAA),**
C/o Secretary Environment,
Environment Department,
Govt. of Maharashtra,
Room No.217, (Annexe) Mantralaya,
Madam Cama Road, Mumbai400032.
5. **The Secretary Environment,**
Govt. of Maharashtra
Room No.217, (Annexe) Mantralaya,
Madam Cama Road, Mumbai400032.
6. **The Member Secretary,
Maharashtra Pollution Control Board**
Kalptaru Point, 3rd Floor, Opp. Cineplanet,
Sion East, Mumbai-400 022.

.....Respondents

Counsel for Applicant(s):

**Mr. R.B.Mahabal Advocate a/w Shrilekha Golekar Advocate, Mr.
A.P. Akut Advocate.**

Counsel for Respondent(s):

**Mr. Shivraj P. Kadam Advocate a/w T.B.Godbole Advocate for
Respondent No.1.
Mr.D.M.Gupte/Supriya Dangre, for Respondent Nos.2 to 5.
Mr. Saurabh Kulkarni Advocate for Respondent No.6.**

Date: March 18th, 2015

J U D G M E N T

1. By this Application, Applicant Mr. Vishwas More raises certain issues pertaining to Sewage Treatment Plant (STP) to deal with sewage on account of use of sheds by

large number of stockiest/farmers for storage, sale and auctioning of Tomatoes in the area of market yard of Respondent No.1 – Krishi Utpanna Bazar Samiti, Pimpalgaon Basvant, as well as absence of arrangements for shifting of sewage without proper arrangement, allowing it to another nearby farms, causing damage to the land, crops, contamination of groundwater, well water and other environmental adverse impacts. Claim put forth by him, is that construction of premises, shelters so called temporary sheds erected by means of pipes attached to the pipe framework in the market yard area, are considered construction work excessive of 20,000sq.mtrs area and, therefore, approval of competent authority, as per MoEF Notification dated 14th September, 2006, as amended on 4.4.2011, is essential, which the Respondent No.1 desires to bypass.

2. By this Application, the applicant has raised various environmental issues of substantial nature, mainly relating to activities of the farmers, visa-a-visa market yard. The market yard in each city, town or metro city, is mainly for the traders dealing in trading of grains, pulses and other edibles like dry-fruits etc. Market yard in the rural areas, however, are of different kinds, because they are required to deal with agricultural produce like Onions, Tomato, Grapes, Food-grains, apart from grains, pulses

etc. In other words, market yard in rural areas deal activity, one in trading of dry type of agricultural produce or edibles, including dry-fruits etc. and another in vegetables, eatables/fruits, which require sale activity without spending much time. Otherwise, such vegetables, fruits or agricultural produce like Grapes or Tomatoes, may not be of any use to the vendors or the buyers.

3. Pimpagaon-Basvant is one of such a big market yard in Nashik district. It has been constructed over about 100 acres of land by Pimpalgaon joint farming society. Undisputedly, the market yard started operation in somewhere in the midst of September, 2013. A large number of farmers from many places of Nashik district visit the market yard for sale of their agricultural produce like Onions, Tomatoes, Grapes, and vegetables so on and so forth. Approximately, 300-400 trucks are loaded or unloaded within the premises of the market yard for such trading activity. There is no dispute about the fact that large number of farmers are required to stay overnight within premises of the market yard, awaiting their transactions to be completed. The market yard has constructed 25 sheds for shelter of such agriculturist's need for overnight stay in the premises.

4. It is case of the Applicant that around 1, 750,000 to 2,500,000 liters of water is regularly used

within premises, including 25 permanent sheds used by the agriculturists. Untreated sewage is let out without any defined channel trained surface or proper system of closed gutters. There is no STP for treating sewage and, therefore, untreated sewage is drifted towards Zopul road and enters into nearby agricultural lands in uncontrolled manner until it reaches 'Kadva' River. Consequently, agricultural lands are contaminated with sewage water, damaging farm lands, sensitive crops, resulting into loss of fertility and actual production of crops.

5. Environmental problem is further enhanced, because the Market Committee has allowed traders to have permanent construction of sheds annexed to their shops/premises for storage of stock received for sale. The storage of Tomatoes, Grapes, and Onions during relevant season necessitates more people to visit the market yard, which adds to more sewage, which remains untreated. The market yard has not obtained Environmental Clearance (EC) from the State Environmental Impact Assessment Authority (SEIAA), notwithstanding the fact that construction is over and above 20,000sq.mtrs and falls within the category of entry No. 8(a) of the EIA Notification dated 14th September, 2006. The pollution within market yard is ever growing problem with addition of seasonal vegetables, stock of Tomatoes, Onions and other likewise

agricultural products, which are stocked or kept for sale, may be for auctioning purpose, in the sheds, which are erected by means of iron pipes or Bamboos, annexed with vending places of grain vendors/licensees of the market yard. There are no adequate STPs, adequate arrangements for underground channels of sewage for clearance of sewage generated at the sites. The sewage generation capacity per day, is not considered by the Market Committee and only two (2) small STPs, one within the premises of market yard and one at the residential building for shelter of the agriculturists, are mostly inadequate to take care of thousands of people/agriculturists, who are compelled to use open places for answering call of nature of easing themselves or discharging morning affairs. The generation of such filth gives foul smell in the area, is harmful and causes adverse impact on the quality of crops available to the Applicant and nearby agriculturists. The market yard has not made any arrangements for composting of rotten fruits/vegetables and as such, pollution is spread out without any control.

6. Considering above aspects, the Applicant has prayed for following reliefs:

- A. Immediately stop operations of the Respondent No.1 till effective STP is provided along with proper drainage arrangement (or if they have been already stopped operations, then maintain the status quo)

- B. Immediately stop operation of the Respondent No.1 till 'Environmental Clearance' is applied and obtained under category 8(a) or as applicable, after following due process of law (or if they have been already stopped operations, then maintain the status quo).
- C. Appoint an expert or Expert Committee to assess the damage to crop, groundwater, well water, farms and farmland.
- D. Maharashtra Pollution Control Board to take appropriate action to forthwith ensure the compliance in respect of providing STP and proper drainage system.
- E. Maharashtra Pollution Control Board to take appropriate action for the violations of the provisions of Water (Prevention & Control of Pollution) Act, 1974
- F. Maharashtra Pollution Control Board to take appropriate steps to restore the damage to environment.
- G. Pay applicant compensation of Rs.50,000/- towards environmental testing required to be done and expenses of litigation forced on it.
- H. Pay relief and compensatin as may be determined by the expert committee for the damage to crop, farm, farmland and contamination of groundwater and well water.
- I. Pay relief and compensation as may be determined by the expert committee for restitution of environment.

7. Respondent No.1 – Agricultural Produce Market Committee (APMC), resisted the Application on various grounds. Chief bone of contention raised by Respondent No.1, is that temporary shades situated in the premises of APMC, pertain to necessary activities of unloading, branding and packaging of the agricultural products of Tomatoes during season of Tomato crop between June to December of each year. For such purpose, agents of traders erected temporary shelters/sheds with wooden/Bamboo support, covered by zinc sheets. Their intention is to protect the vegetables brought by the agriculturists to the market yard. The temporary sheds are required for benefit of the agriculturists during harvesting season. The Agricultural Produce Market Committee (APMC), has acquired approximately 800 acres of land and has planned to develop big APMC activity for benefit of the farmers. The auction place of agricultural products of APMC was previously about 2km. away from Pimpalgaon city on Mumbai-Agra, National Highway No.3. For benefit of the farmers, APMC shifted auctioning yard to inner side of the Highway on Jopul road, at a distance of 1 km. away from Pimpalgaon city. Somewhere in 2007, APMC, has purchased about 800 Acres land from joint Farming Society, Pimpalgaon. It has shifted certain activities to new Zopul road market yard in August, 2013. APMC has

provided necessary facilities to the agriculturists, traders, labours in the new area of market yard, situated at Jopul road yard premises, which give better facilities and allow the farmers to get better prices for agricultural products.

8. According to Respondent No.1, the Applicant alleged contamination of his well water and made certain grievances on account of political rivalry and ill-intention. The Applicant filed Writ Petition No.11221 of 2013, only regarding effluent, untreated running from toilet blocks, which allegedly contaminated water, but now, in this Application, he has also added certain other issues with ulterior motive to bring about more colour to give the Application, in addition to what he narrated in the Writ Petition. He had also filed a complaint before the Maharashtra Water Resources Regulatory Authority (MWRRA), with same grievances. The requirement of MWRRA, regarding installation of Sewage Treatment Plant (STP), was complied with by Respondent No.1 and, therefore, the complaint of the Applicant was disposed of.

9. The construction area within Jopul road yard is only of 18746.36sq.mtrs, as per sanction order issued by Pimpalgaon Baswant Gram Panchayat. Therefore, it is contended by Respondent No.1, that there is no need to seek Environmental Clearance from the competent Authority, because construction area does not cross outer

limit of 20,000sq.mtrs. It is alleged that mere putting of temporary sheds during season of Tomato, Grapes will not attract entry No. 8(a) or 8(b), Schedule 8 of EIA Notification dated 14th September, 2006, and as such, the activity is within legal framework of the Environmental Laws. Consequently, the Respondent No.1, denied need for requirement of any EC from the competent Authority. Secondly, it is contended that built-up area, means the area covered immediately above the plinth level by the building of external area of any upper floor, whichever is more, accepting the area cover of Rule 15.4.2 of the Development Control Rules (DCR). The APMC has not done any work in DCR. The Allottees of vacant areas i.e. the Traders/Commission Agents, installed temporary shelters/sheds with support of Bamboo/iron pipes, covered by zinc sheets for protection of crop of Tomatoes, to protect the interest of farmers, which activity is not undertaken by the APMC (Respondent No.1), and as such, it cannot be said that the Respondent No.1, has carried out any construction beyond 20,000sq.mtrs. It is denied that the Respondent No.1, has failed to provide required STPs and toilet facilities in the premises of market yard. It is also denied that untreated sewage is allowed to run without control in the nearby lands, which has caused environmental damage to the lands and, as such, fertility

of the lands is adversely affected. It is denied by the Respondent No.1 that the drainage facility in the market yard is uncovered, insufficient and unprotected. Therefore, environmental adverse impact is resulted in the nearby areas. It is denied that the Applicant suffered loss of crops due to illegal acts of Respondent No.1- Krishi Utpanna Bazar Samiti, Pimpalgaon Baswant (APMC).

10. Respondent No. 6, filed affidavits of their officer from MPCB, at Nashik. The affidavit filed by Mr. Ankush Fulse, Regional Officer of MPCB, purports to show that on 10th June, 2014, the site was visited by him. This visit was after filing of the present Application in this Tribunal. At the relevant time, it was found that there was no discharge of uncontrolled water from the premises of Respondent No.1, and one STP, was installed for wastewater treatment within the premises. The complaint of Applicant was investigated by the team of MPCB. It was found that common STP for collection and treatment of domestic effluent generated from project, was recently installed, one more STP was proposed by Respondent No.1 and such work was in progress. However, no direct discharge of wastewater was observed outside the construction area. Well water of the Applicant was found to be contaminated due to previous discharge by the Respondent Nos.1 to 3. There is something illogical or amiss about such statement

of Mr. Ankush Fulse, in his affidavit. How previous discharge was found to be cause of contamination, is rather unknown and not a convincing factor.

11. Affidavit of Mr. Vinayak Shinde, yet another Regional Officer of MPCB, shows that STP, is installed for collection and treatment of domestic effluent generated from the project facility of Respondent No.1 and one more STP, is proposed by Respondent No.1, of which work was in progress. His affidavit is identical to the affidavit of Mr. Ankush Fulse. His affidavit shows that on 5.9.2014, trading activity of Tomatoes was in operation and at that time two (2) STPs were operational. His affidavit further shows that no discharge of treated or untreated domestic water was observed, going outside the premises of Respondent No.1. The Inspection Reports are also filed by MPCB. The Inspection Reports go to show that COD value of the samples collected of well water of the Applicant, was very high, because it was 308 and 372 during the two (2) visits.

12. The points which arise for determination are as follows:

- i) Whether the project activity, inclusive of temporary sheds require any EC, in view of entry No.8 (a) of Schedule 8, appended to EIA Notification dated 14th September, 2006, or amended thereafter in 2011, because it has to be included as 'covered area', due to

putting up of the sheds, covered by roofs of zinc sheets alongside the main shops/market premises, allotted to traders and total side area is over and above 20,000sq.mtrs, if considered together?

- ii) Whether Respondent No.1, has failed to install required number of STPs and thereby caused adverse environmental adverse effect in the premises of APMC (Respondent No.1), with the result that surrounding area and agricultural lands in the vicinity, as well as water in the wells of nearby areas are adversely affected?
- iii) Whether Respondent No.1, discharged untreated water/effluents in the land of Applicant, which contaminated his well water and thereby caused loss to his agricultural crops? If yes, to what extent?
- iv) What precautionary measures, are necessary to be taken by Respondent No.1 for appropriate and effectively manage affairs of the market yard in the area where auctions are held, large number of agriculturists come for night-stay, there is inadequacy of toilets, huge quantity of Tomatoes or like vegetables/fruits etc.are brought for sale, for auctioning process and there is pulp of thrown or unuseful or rotten Tomatoes drifted to some extent?

Re: Issue (i) :


13. The Applicant has raised above issue, in order to show that entire activity carried out by the Respondent

No.1, is illegal for want of appropriate EC, required under the EIA Notification, issued by MoEF, on 14th September, 2006. It is worthy to note that no such averment was made in the Writ Petition No.11221 of 2013, which was filed before the Hon'ble High Court. The prayers in the said Writ Petition also do not show that the activities of Respondent No.1, were challenged on the ground of violation of Regulations provided under the EIA Notification dated 14th September, 2006. The pleadings of Applicant in that Writ Petition do not show that temporary sheds are the part and parcel of shops given to the traders of APMC. Perusal of the pleadings in the said Writ Petition clearly indicate that the Applicant mainly relied upon inadequacy of essential facilities like toilets, STPs, contamination of water and health hazard, caused due to pollution on account of uncontrolled waste management of Respondent No.1. Obviously, it was never the case of Applicant that temporary structures erected with the help of Bamboos for protection of agricultural produce of Tomato/Grapes etc. ought to have been taken into consideration for conducting EIA study and EC was necessary for Respondent No.1, under entry No.8 (a) and 8(b) of Schedule 8, appended to EIA Notification dated 14th September, 2006. It goes without saying that the Applicant has now, invented a new ground while filing the present Application, in this context.

The plea which was given up previously ought to be held as abandoned, in view of the provisions of Order 2, Rule 2 of the Code of Civil Procedure, 1908, because the Applicant could have taken such a plea in the earlier proceedings to which he failed to do so and did not explain as to why no such plea was taken in the course of such proceedings. A copy of the Writ Petition No.11221 of 2013, purports to show that he was aware of the fact that temporary arrangement, which could be erected by means of Bamboo or sticks, could be demolished at any time and cannot be treated as “construction activity”. Therefore, he avoided to raise such plea in the earlier pleadings and, as such, now he cannot be permitted to say that by addition of temporary sheds of Bamboo in the proximity of vending places, used for protection of vegetables/fruits brought in the agriculture market, the construction area exceeds 20,000sq.mtrs which require EC, under the Notification mentioned above.

14. For sake of argument, even if the issue is required to be considered, the very purpose of Notification dated 22nd December, 2014, whereby earlier Notification was amended ought to be considered. A copy of amended Notification is placed on record (Annexure “B”). The Item No.8, relating to building/construction project and entries

relating thereto specified thereunder following items, sub-items and entries have been substituted.

(1)	(2)	(3)	(4)	(5)
"8		Building or Construction projects or Area Development projects and Townships		
8(a)	Building and Construction projects	>20000sq.mtrs and < 1.50,000 sq.mtrs of built up area	 सत्यमेव जयते	The term "built up area" for the purpose of this notification the built up or covered area on all floors put together, including its basement and other service areas, which are proposed in the building or construction projects Note1.- The projects or activities shall not include industrial, but such buildings shall ensure substantial environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks. Note 2.- "General Conditions" shall not apply.
8	Townships and Area Development Projects	Covering an area of > 50ha and or built up area > 1,50,000sq mtrs		A project of Township and Area Development Projects covered under this item shall require an Environment Assessment report and be appraised as Category 'B1' Project. Note.- "General Conditions" shall not apply.

15. Considering entry 8(a), as amended, it is manifest that such project must be the project related to "buildings and construction". The project in question is not a building and construction project as such. The present project is related to market activities pertaining to sale of agricultural produce brought by the agriculturists/farmers for sale through the agents/traders at a common place, under special provisions of an enactment called 'the Maharashtra Agricultural Produce Marking (Development and Regulation) Act, 1963'. This enactment is the special Act, which came into force much prior to the Regulations

of 1986 and deals with particular subject, namely; agricultural produce and the transactions, relating thereto. Entry 8(b) also is irrelevant in respect of present project, because it deals with the projects and township and area development. In the present case, the project is not of development of township or development of area. Obviously, the project of APMC i.e. Respondent No.1, does not fall under either of category, nor because of the fact that certain temporary sheds are permitted to be erected during season of crops for protection of yield and benefit of the agriculturists/farmers, who would likely to suffer loss, if such protection is unavailable. Needless to say, the objection raised by the Applicant in this context, is without substance and stands rejected. Issue No.1, is, therefore, answered in the Negative.

Re: Issue (ii) :

16. The Applicant supported his case by affidavit. There are numerous photographs at page 74, which go to show that a large number of temporary sheds are erected in the market yard by Respondent No.1. So also, untreated wastewater, is drifted towards agricultural lands of the Applicant from the market yard. There is a drain. The work of excavation by using JCB Machine is going on near the wall of market yard, and underground big hole is wrongly created. Affidavit of Mr. Ankush Fulse, the Regional Officer

of MPCB, goes to show that water of well of the Applicant, was found contaminated due to discharge of waste effluents by Respondent by Respondent Nos.1 to 3. As stated before, the results of samples collected by MPCB, would clearly show that COD percentage in well water of the Applicant exceeded permissible limit and, therefore, it can be definitely stated that water of his well is contaminated. Respondent No.1 allegedly draw water from 'Kadva' River and stores same in the tanks of the area of market yard. The storm water runs through the water drain.

17. The visit of MPCB, Regional Officer dated 21.4.2014, revealed that there are twenty five (25) Bathrooms in the market yard, which were found closed. There was one 'Sulabh Shauchalay' (Toilet), one STP of 150 MLD capacity, which was found in operation. The APMC (Respondent No.1), was using treated wastewater partly within the area for gardening.

18. Perusal of the record would show that toilet facilities are disproportionately made available to the farmers, who visit the market yard. So also, there are no adequate numbers of capable STPs. The capacity of STPs, are totally inadequate to deal with sewage and waste management, including the waste caused on account of loss of vegetables/fruits, which are rotten, un-useful and

thrown away because of their staleness, unworthy and unusefulness for consumption.

19. At this juncture, it may be noted that activity of temporary shed required to be erected during rainy season, for the purpose of auctioning the vegetables/fruits, is permissible, as per communication dated 1.9.2014, issued by the Chief Manager, in accordance with the authority under Regulation 12(1) under the byelaws of APMC Rules. However, it does not mention that such temporary sheds can be erected for period beyond rainy seasonal period. Obviously, the stand of Respondent No.1, that such temporary sheds can be erected during entire period of year, is without substance. It is only permissible during rainy season, in order to avoid loss of agricultural produce/fruits brought for the purpose of auctioning. Secondly, if at all the shops are to be let out, then there is no embargo to grant licences. In case, unauthorized use of land is found to be made by any licensee of the shop, Gala, shed, plot or any other premises allotted or leased for sale and purchase of agricultural produce or for other purposes, directly or indirectly connected with the sale and purchase of agricultural produce, is not used for the purpose for which allotment was made or misused or where encroachment is made on the land of market committee, the Market Committee has power to evict such

encroacher under Section 32 (E) of the Maharashtra Agricultural Produce Marking (Development and Regulation) Act, 1963. The Market Committee cannot take shelter under the guise that such temporary sheds are erected by the agents or traders and not by the licencess Market Committee (Respondent No.1). The sewage caused due to large number of agriculturists, who visit the market yard for the purpose of sale of their vegetables/fruits, is natural source of sewage generation. It is manifest that MSW and sewage created due to large number of visitors to the market yard during the relevant period of peak season ought to be duly taken care of by Respondent No.1. We mean to say that Respondent No.1 is duty bound to provide adequate number of sewage tanks in order to remove the sewage, effluent and treat the MSW, caused at the site during peak period of sale.

20. Ordinarily, the parameters should have been either by generation of sewage and solid waste having regard to number of visitors to the market yard and requirement of STPs to deal with the problem. However, we find that since beginning, MPCB has tried to support the Respondent No.1 and put the real issues under the carpet. Still, however, affidavit of Sabhapati of APMC, makes it clear that as per National Building Code (NBC), for 100 persons one Septic tank is required and at least twenty five

(25) Toilets are required. Considering this parameter, having regard to the number of persons, who are required to work and stay in the premises of APMC, sufficient toilets and urinals as well as adequate number of STPs must be provided by the Respondent No.1. It is necessary for the Respondent No.1 to provide such arrangement within a short span to avoid further pollution which has been spread over. The Respondent No.1 has filed another affidavit on 3rd March, 2015, wherein the Respondent No.1 submits that both the STPs are now operational and further a proposal to construct a new solid waste treatment facility is approved by the Respondent No.1- Board and the approval of concerned Govt. department is expected soon for start of the work. Though certain progress of sewage treatment, particularly, operation of both STPs is observed during pendency of the matter, we are of the opinion that MPCB needs to conduct a special audit to assess effluent generation, STP operations, effluent disposal arrangement, particularly land and also distribution of said work. The earlier photographs showing drinking water tanks used for treated effluent disposal speaks a lot. The Respondent No.1, has given a detailed tabular statement, showing sewage management, including available infrastructure. However, this infrastructure seems to be inadequate, considering large number of people visiting the complex.

Secondly, though the sewage generation is pegged at shown 1,41,000 Ld/D, provisions are only of two STPs with 150 m³ capacity, which itself indicates that the Respondent No.1, is anticipating more wastewater than the projected quantity. The Regulatory authority i.e. MPCB has failed to assess the effluent generation load or even to verify the data of water used to arrive at some estimation of pollution load. Considering these aspects, we deem it proper to answer issue No.(ii) in the Affirmative.

Re: Issue (iii) & (iv) :

21. As stated before, the affidavit of Mr. Ankush Fulse, supports the case of Applicant to the extent that water of his well is contaminated due to drifting of untreated effluent of uncontrolled and untreated effluent mixed with water through drainage of Respondent No.1. This fact is very much clear from the photographs filed by the Applicant at P-75 to 78. It is an admitted fact that the agricultural land of the Applicant is abutting the land of Respondent No.1. The Reports of samples analyzed by MPCB, indicate excessive COD in the samples of well water situated in the land of the Applicant. All these facts corroborate the averments of the Applicant. The corollary of such proof given by him is that his land must have suffered adverse impact of environmental damage because

of acts of the Respondent No.1. He is, therefore, entitled to compensation of Rs.5Lakhs from Respondent No.1.

22. Another important contention of the Applicant is that the present activity of the Respondent No.1 shall be regulated by MPCB, through consent management, under the Water (Prevention & Control of Pollution) Act, 1974. MPCB on the other hand, submits that as the built up area of this project is less than 20,000sq.m, it is not covered under the consent management. However, no such policy decision or any nexus of built-up area visa-a-visa water pollution load/source, as envisaged under Ss. 25 and 26 of the Water Act, has been placed on record by the MPCB. Learned Counsel for the Applicant argued that as per provisions of the Water Act, source of water pollution and pollution load are the only relevant criterias for regulating activity, and the built up area cannot be a criteria to regulate the same. Considering the provision of Ss. 25/26, we find merit in such an argument of leaned Counsel of the Applicant. It is necessary for MPCB in “*stricto sensu*” to adhere to the provisions of Ss. 25 and 26 of the Water Act while regulating water polluting sources and activities.

23. It is argued on behalf of Respondent No.1 that all the arrangements of STPs and Toilets etc. including number of closed drainage will be done as per direction of this Tribunal within time frame, but that there is no

intentional error committed by Respondent No.1. We would like to state that directions by this Tribunal are required to be given by following the 'Precautionary Principle' under Section 20 of the National Green Tribunal Act, 2010, so as to protect environment in the area so that no such continuity of wrong should reoccur.

24. Under these circumstances, the Application is partly allowed in the following manner;

- i)** The Respondent No.1, shall pay compensation of Rs.five (5) lakhs to the Applicant for deterioration of quality of his well water and remediation thereof.
- ii)** The Respondent No.1, shall provide sufficient number of Toilets/Urinals at an appropriate locations for men and women, to ensure that there is no open defecation or urinals.
- iii)** The Respondent No.1, shall operate the STPs effectively and continuously and the treated effluent shall not be discharged outside the premises.
- iv)** MPCB shall take a decision regulating activities of the Respondent No.1, in view of effluent generation load in next two (2) months.
- v)** MPCB shall conduct environmental audit of the Respondent No.1's activities, as mentioned above paras and issue suitable directions, in next two (2)

months, in case of any shortfall or shortcomings to improve the same in a time bound manner, within three (3) months from date of issuance of such directions.

vi) The Respondent No1, shall provide solid waste management and disposal plant within next three (3) months.

vii) MPCB shall ensure compliance of above the directions.

....., JM
(Justice V. R. Kingaonkar)

....., EM
(Dr.Ajay A. Deshpande)

Date: March 18th, 2015

khk

NGT