

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

**Original Application No. 125/2018
(M.A. Nos. 334/2018 & 793/2018)
(Earlier O.A. No.163/2017 (WZ))**

IN THE MATTER OF:

**Arvind Pundalik Mhatre
Vs.
Ministry of Environment, Forest and Climate Change &Ors.**

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: **Applicant :** **Dr. Sudhakar E. Avhad, Mr. Arvind S. Avhad,
Mr. Lalit Mohan and Mr. Chetan R. Nagare, Mr.
Karri Venkat Reddy, Advs.**

Respondents : **Mr. Mukesh Verma, Adv. Dr. Y.B. Santakke, Director
and Dr. AN Harshvardh, RP for MPPCB
Mr. Prakash Kumar Singh for Central Pollution
Control Board
Mr. Shaurya Sahah, Adv.
Ms. Sakshi Popli, Adv. for Mr. Divya Prakash Pande,
Adv for MoEF & CC
Mr. Karan Mathur, Adv. and Mr. Iro D'costa, Adv.
Mr. Amit Kumar and Mr. Kumar Abhishek, Advs.
Mr. Guruprasad Pal and Ms. Ramni Taneja, Advs.
Mr. Rajiv Bansal, Sr. Adv., Mr. Kush Sharma, Mr.
Prateek Gautam and Ms. Kamna Singh, Advs.
Mr. Tarunvir Singh Khehar, Ms. Guneet
Khehar and Mr. Sandeep Mishra, Advs.**

Date and Remarks	Orders of the Tribunal
Item No. 05 August 17, 2018 SS & DV	<p>1. The grievance raised in these proceedings relates to discharge of effluents in river Kasardi, having adverse impact on the environment. Though a Common effluent treatment plant (CETP) is being managed by the "Taloja CETP Co-operative Society Limited" since 2013, the problem continues.</p> <p>2. On 04thApril, 2018, the matter was considered by this Tribunal, in the light of the joint inspection report, submitted in pursuance of earlier order of the Tribunal. The joint inspection was conducted by the Central Pollution Control Board and the Maharashtra Pollution Control Board. In the said report, it was found that effluents not meeting the standards, were being</p>

	<p>Item No. 05</p> <p>August 17, 2018</p> <p>SS & DV</p>	<p>discharged as the CETP was not properly maintained. The Tribunal recorded the statement of the respondents that fresh tender was to be issued for the maintenance of the CETP.</p> <p>3. It was noted that the effluent discharge was high and alarming and was going into the creek wali from which the water was being used for drinking as well. The Taloja CETP Co-operative Society was directed to forthwith stop the discharge which was not meeting the parameters. The Society was also required to deposit a sum of Rs. 5 Crore with the District Magistrate to be kept in a separate fund. The said Society was also directed to commence the work of upgrading the CETP. Thereafter, the Pollution Control Board was directed to conduct an inspection after one month to suggest effective ways to prevent discharge which was not meeting the parameters and also to submit an action plan.</p> <p>4. On 11th May, 2018, it was noted that the CETP was not made functional. Accordingly, the Pollution Control Board was directed to ensure that the industries not operating their ETPs and releasing their untreated effluents be shut down.</p> <p>5. On 31st May, 2018, the Tribunal noted that 18 industries were shut down and Show Cause Notices were given to others. Direction was issued to close down other industries continuing to release untreated effluents or not having consent to operate.</p> <p>6. Again, on 11th July, 2018, this Tribunal referred to the affidavit of the Society dated 11th July, 2018 to the</p>
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	<p>Item No. 05</p> <p>August 17, 2018</p> <p>SS & DV</p>	<p>effect that there was huge accumulation of sludge in the sump which was to be removed for which 4 months time was required, there was need to repair 4-5 motors for pumping of the effluents from the sump collection tank; the pipelines were required to be repaired as the same were leaking; the oxygen diffusion system was to be replaced; aeration tank was to be cleaned up; tender has been issued for the sludge removal; present status of the CETP was as per Maharashtra Pollution Control Board parameters; 18 industries were closed and Show Cause Notices were given to 92 industries, on account of which there is fall in the inlet COD levels coming into the Taloja CETP. The Tribunal noted that there was no occasion to reconsider the direction for depositing of Rs. 5 Crore as CETP was still not fully functional and untreated effluents were being discharged for about 5 years. Accordingly, a fresh inspection was directed to be carried out by the Central Pollution Control Board and the Maharashtra Pollution Control Board. It was noted that the turnover of the industries in the area was about Rs. 6,000 Crores annually. There was imminent danger to the life of the local population and to the fauna. It was also observed that further amount may be required to be deposited on assessment of damage to the environment.</p> <p>7. Today, a joint inspection report of inspection conducted by the Central Pollution Control Board and Maharashtra Pollution Control Board on 31st July, 2018, has been furnished. The report <i>inter-alia</i> states that out of 229 effluent generating units, 195 units were sending their effluents to the CETP. The Maharashtra Pollution</p>
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	<p>Item No. 05</p> <p>August 17, 2018</p> <p>SS & DV</p>	<p>system practiced by CETP found to be unsatisfactory as the SDBs of phase-II is not provided with leachate collection and transfer system. SDBs of Phase-I having leachate collection tank and flexible pipes are reportedly used for transfer of leachate to aeration tank. However, proper and fixed transfer system of leachate to equalization tank needs to be provided for both the phase. The decanter installed at the phase-II was not working.</p> <p>Civil structure, railing of collection tank, aeration tank was found damaged and needs improvement.</p> <p>The OCEMS and flow meter installed by the CETP at the inlet and outlet was not operational during visit as sensors were observed submerged in the sludge and proper working of sensor in such condition is technically not possible. Leakages from sludge transfer pump, glad leakage, accumulation of acidic wastewater near sludge drying beds of phase-II, storage of sludge on open land adjacent to sludge drying bed near collection tank and overall housekeeping shows negligent approach.</p> <p>The final outlet sample collected from CETP significantly exceeds MPCB discharge standards for the concentration of TSS, FDS, COD, BOD, NH₃-N, TKN, phenols, PO₄-P, Cl, S₂, CN, Fe and Pb. MIDC has to provide the final disposal point in the deep sea as suggested by NIO. MIDC also need to repair and maintain the leakage in the discharge pipeline.</p> <p>It is therefore concluded that the CETP has not taken sincere efforts for execution of recommendations given in the earlier reports submitted to Hon'ble NGT. MPCB is in the opinion that change of the management committee of CETP, administration of Registrar of Societies to newly elected committee are the reason for the same. Thus, CETP continue to violate the MPCB discharge norms.</p> <p>It is recommended that CETP should devise systematic time bound approach to address the issues starting from the very first step of treatment scheme to the end. The CETP management is required to revisit the recommendations made in earlier as well as in present reports and also to integrate efforts as stakeholders to implement them without further delay.”</p> <p>9. The above conclusion clearly shows that the substantial improvement has not taken place and the CETP continues to violate the Maharashtra Pollution</p>
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	<p>Item No. 05</p> <p>August 17, 2018</p> <p>SS & DV</p>	<p>victims who may have suffered on account of pollution in the river.</p> <p>12. In above circumstances, we are left with no alternative but to direct that appropriate action be taken under the civil and criminal laws against the erring industries as well as for failure of MIDC and the CETP Co-operative Society, to perform their duties. Action may have to be considered against office bearers who are presently running the Society as well as those who were earlier managing the same so as to stop any discharge above the norms prescribed under the law. The Maharashtra Pollution Control Board may take administrative action against the erring officials besides taking steps for restoring the damage to the environment and also for the rehabilitation for affected inhabitants in the area.</p> <p>13. In view of complex nature of the problem and also the magnitude of the damage already done and which is being continued, we will enhance the amount of Rs.5 Crore required to be deposited by the Society to Rs. 10 Crore to be deposited with the District Magistrate within one month. The Society may collect the amount from defaulting industrial units.</p> <p>14. Next question is how the order is to be executed. Section 25 of the NGT Act provides for execution of the order as a decree of Civil Court. Either Tribunal has to act as Civil Court or transfer the execution to Civil Court. When pollution is patent, there is no difficulty in requiring remedial measures being taken for protection of environmental. Execution remains a challenge. Coercive</p>
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<p>Item No. 05</p> <p>August 17, 2018</p> <p>SS & DV</p>	<p>measures prescribed include filing complaint for prosecution under the Act or attachment and arrest under the CPC. The situation of the present nature requires continuous action not only to ensure that pollution stops but also that the damage is restored. In such situation, sui generis proceeding needs to be adopted for execution with this being done order of the Tribunal will remain on paper. The Tribunal has, in several earlier orders, including similar cases in the context of pollution of rivers Ganga, Ghaggar and Hindon appointed monitoring/execution committees headed by former High Court Judges to ensure credible mechanism. This experience appears to have helped the situation. Accordingly, to handle the situation in the present case, we constitute a Monitoring Committee to execute the order of this Tribunal as follows:</p> <ol style="list-style-type: none"> i. Justice V.M. Kanade, former Judge of Bombay High Court (Phone No. 98203082207), Chairman. ii. Representative of Central Pollution Control Board, Member. iii. Collector of the area, Member. <p>15. The Committee will take following steps:</p> <ol style="list-style-type: none"> (i) Take stock of all the actions taken so far in the light of the various directions of the Tribunal. (ii) Propose time bound action plan to deal with the problem. The Committee may suggest the framework for implementation. Preferably a
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