



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**PUBLIC INTERET LITIGATION (L) NO. 33884 OF 2022
WITH
INTERIM APPLICATION (L) NO. 4441 OF 2023**

Govandi New Sangam Welfare
Society

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr. Zaman Ali a/w Mr. Neil Pais for petitioner.

Mr. Milind More, Addl. Government Pleader for respondent no.1/State.

Mr. Sachindra B. Shetye a/w Mr. Irfan A. Shaikh for respondent nos.2 and 3/MPCB.

Mr. Anoop Patil a/w Ms. Oorja Dhond i/by S. K. Sonawane for respondent no.4/MCGM.

Mr. Aspi Chinoy, Senior Advocate a/w Ms. Nikita K. Dharamshi for respondent no.5.

Mr. C. M. Lokesh for respondent no.6/CPCB.

Ms. Afrin Khan i/by Mateen Shaikh for applicant in IAL/4441/2023.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE: 11th SEPTEMBER, 2023

P.C.:

1. Heard Mr. Zaman Ali, learned counsel representing the petitioner, Mr. More, learned Additional Government Pleader representing the respondent no.1/State of Maharashtra, Mr. Shetye, learned counsel representing the respondent nos.2

and 3/MPCB, Mr. Patil, learned counsel representing the respondent no.4/MCGM, Mr. Chinoy, learned senior counsel representing the respondent no.5 and Mr. Lokesh, learned counsel representing the respondent no.6/CPCB.

2. This Public Interest Litigation petition seeks appropriate directions to be issued by the Court to the respondent no.4/ Municipal Corporation of Greater Mumbai (hereinafter referred to as "the MCGM") and other responsible authorities to make appropriate arrangement for treatment of bio-medical waste at Govandi. According to the petitioner, the facility of bio-medical waste treatment at Govandi Plant is not adequate and as a matter of fact the incinerator put therein is the cause of major pollution in the area which is affecting large number of population living in the vicinity.

3. Alleging certain non-compliances and flaws by the respondent no.5 in running the said plant, it has also been urged in the PIL petition that the Maharashtra Pollution Control Board (hereinafter referred to as "the MPCB")/respondent no.3 be directed to impose appropriate environmental compensation upon the respondent no.5/contractor as per the guidelines available on the basis of "Polluter Pays" principle.

4. The Court it is order dated 11th August, 2023 had noted a tentative timeline given by the respondent no.5 for establishment of the new incinerator at a different place. Having considered the said timeline, the Court had directed the Member Secretary of the MPCB to hold a meeting with the representative of the respondent no.5 along with the representative of the MCGM to find out as to how 13 months'

period likely to be taken for completion of construction of plant from the date of grant of environmental clearance can be reduced. Pursuant to the said order, a meeting of the officers along with the representative of the respondent no.5 was held on 22nd August, 2023, wherein following decisions have been taken: -

Sr. No.	Points	Decision
1.	Obtaining the Plot in MIDC Area	M/s. SMS Envoclean Pvt. Ltd. shall expedite the payment to MIDC for allotment of the plot at the earliest.
2.	MPCB to consider and take decision on the Application for C to E with expedition	The Member Secretary, MPCB has directed M/s. SMS Envoclean Pvt. Ltd. to immediately apply for Consent to Establish for setting up of Bio-Medical Waste Treatment Facility at Patalganga - Borivali, MIDC area. Thereafter, MPCB will issue Consent to Establish on priority.
3.	The Hon'ble High Court also directed that a decision for grant of EC by the SEIAA/SEAC shall also be given in the minimum possible time.	M/s. SMS Envoclean Pvt. Ltd. informed that they will carry out Rapid EIA Study as per Guidelines issued by MoEF & CC, Govt. of India of the land at Patalganga-Borivali, MIDC area immediately once the plot is allotted and submit the application for Environmental Clearance to the

		Competent Authority.
3	To reduce the period of 13 months for construction of the plant.	M/s. SMS Envoclean Pvt. Ltd. shall reduce the timeline for establishment and commissioning of CBMWTSDF to 12 months after obtaining all the statutory permissions from the Government Agencies.

5. Accordingly, it appears that the respondents are moving in the direction of setting up the new incinerator which is likely to reduce the pollution level in the area. One of the decisions taken in the said meeting is that the period likely to be taken in construction of plant has been reduced from 13 months to 12 months. It has been informed by Shri Chinoy, learned senior counsel, representing the respondent no.5, that the payment to Maharashtra Industrial Development Corporation (MIDC) for allotment of the plot has already been made and further that directions have been issued by the MPCB to respondent no.5 to make application seeking consent to establish the bio-medical waste treatment facility at Patalganga - Borivali. In the meeting it was also decided that MPCB shall issue consent to establish the said facility on priority basis.

6. As regards the Environmental Impact Assessment (EIA) study, it has been informed by the learned senior counsel representing the respondent no.5 that immediately after the monsoon, the study shall be taken up and necessary application shall be made seeking environmental clearance, to

the State Environment Impact Assessment Authority/ State Environment Impact Assessment Committee.

7. In view of the aforesaid, we direct that the new incinerator facility shall be commissioned within two years from today. All the authorities, including respondent no.5, shall be held accountable in case there is any lapse on their part in establishing the new incinerator facility within two years from today.

8. We also direct that in the meantime the regular monitoring of the pollution levels in the area and also monitoring of the present plant shall be carried out by the MPCB not only using the online process but also by physical inspection of the site regularly, say on monthly basis.

9. So far as the prayer made in the PIL petition relating to environmental compensation is concerned, in our considered opinion, the issue can be better adjudicated by the National Green Tribunal (hereinafter referred to as "the NGT"). Thus, for prayer clause (b), which is extracted herein-below, we leave it open to the petitioner to approach the NGT where it will have all the pleas available to it to be raised.

"(b) That this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ order or direction directing Respondent No.3 to impose appropriate environmental compensation on Respondent No.5 under the Polluter Pays principle, as per the formula fixed by CPCB's 2019 Guidelines on imposition of environmental compensation and collect the same for the purposes of improving the environment in Govandi in a time-bound manner."

10. We further provide that in case the petitioner approaches the NGT for grant of above quoted prayer (b), the

proceedings before the NGT shall be expedited and completed as early as possible, in accordance with law.

11. We make it clear that we have not made any observation as to the merit of the claim of the parties so far as prayer clause (b) is concerned, which shall be adjudicated by the NGT after hearing and giving opportunity to present their respective cases, to the respective parties.

12. The PIL petition stands disposed of in the aforesaid terms.

13. All pending applications stand disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)

Digitally
signed by
PRAVIN
DASHARATH
PANDIT
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