

Item No. 01

Court No. 1

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

Original Application No. 125/2018
(Earlier O. A. No. 163/2017 (WZ)
(I.A. No.209/2019, M.A. No.99/2019 & M.A. No.103/2019)

(With report dated 19.07.2019)

Arvind Pundalik Mhatre

Applicant(s)

Versus

Ministry of Environment and Forest &
Climate Change & Ors.

Respondent(s)

Date of hearing: 03.09.2019

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

For Applicant (s): Dr. Sudhakar E. Avhad, Mr. Chetan R. Nagare
and Mr. Arvind S. Avhad, Advocates

For Respondent(s): Mr. Mukesh Verma, Advocate for MPCB
Ms. Shyamali Gadre and Ms. Ramni Teneja,
Adocates, Mr. S.D. Patil and Mr. R.P. Patil, MIDC
officers

ORDER

1. The matter pertains to remedial action against pollution caused by the discharge of industrial effluents in Taloja industrial area on the outskirts of Mumbai.
2. The matter has been dealt with by this Tribunal on several dates and orders have been passed having regard to the fact situation depicted in inspection reports filed before this Tribunal from time to time. The record clearly shows that

untreated industrial effluents were being discharged in a water body causing damage to the eco system and health of the inhabitants. Faced with such situation, this Tribunal directed the CETP operator to deposit interim compensation in the sum of Rs. 5 crores to the District Magistrate vide order dated 04.04.2018. Since the pollution continued, further compensation of Rs. 5 Crores was required to be paid by the CETP operator vide order dated 17.08.2018.

3. In view of the repeated failure on the part of the regulatory authorities and the CEPT operators, a Monitoring Committee headed by a former Judge of the Bombay High Court was appointed to propose a time bound action plan. The report of Justice V.M. Kanade was considered vide order dated 09.04.2019. The action plan proposed steps for upgradation of the CETP. The Cooperative Society operating the CETP passed a resolution for take over of the CETP by Maharashtra Industrial Development Corporation (MIDC). MIDC started working around 01.11.2018 but the pollution was not stopped. Accordingly, vide order dated 09.04.2019, this Tribunal directed that industries which are source of pollution be shut down till remedial action is taken. We noted that MIDC as well as MPCB were unable to provide any other option. The MPCB was directed to suspend consent to operate of the industries not meeting the norms and permit them only after the remedial steps are taken. CETP operator was required to deposit balance of amount of Rs. 6.1 Crores towards compensation for the damage to the environment. The amount was to be

deposited with the District Magistrate for restoration of the environment.

4. We have today considered the action taken report filed by MPCB on 20.07.2019 and the status report filed on behalf of the MIDC. The reports show that outlet parameters from the CETP are not achieving the norms due to non-completion work of the upgradation of CETP. Current status of work of CETP is reported as follows:-

- “(i) Phase I CETP :- Taloja CETP phase I having capacity of 12.5 MLD is at present in operation.
(ii) Phase II CETP :- Taloja CETP Phase – II having capacity of 10 MLD has been rehabilitated and upgraded completely. The Phase – II plant is commissioned and will be made in operational very soon.”*

5. Status of operation of CETP *inter-alia* is shown as follows:-

“CETP Phase I plant 12.5 MLD capacity operation were continued and effluent being treated through Phase – I plant taking Phase – II plant 10 MLD capacity under shut down for rehabilitation, removal of sludge etc.”

6. Conclusion in the report of the MPCB is shown as follows:-

“In view of the above facts and circumstances, it is concluded that after commissioning of Phase – II i.e. August 2019 10 MLD effluent will be treated as per norms and remaining effluent of 7 MLD will be segregated at source from large industries who is achieving MPCB’s standard for outlet COD below 250 mg/litr will be taken separately and discharged at CETP outlet directly. Hence, total effluent generation quantity upto 17 MLD will be discharged at COD of 250 mg/litres which is as per MPCB norms and it is allowed for disposal. At the same time, CETP 1st Phase renovation, upgradation work will be started and all the work will be completed upto Nov. 2019 and total CETP functioning will be come into force from Dec. 2019.”

7. The status report filed by the MIDC shows that the amount of Rs. 3.90 Crores which was required to be deposited has not been done though a part of the amount is said to have been collected.
8. It is, thus, obvious that CETP operator i.e. MIDC is continuing to commit criminal offence under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 in discharging effluents beyond norms. It is also violating the orders of the Tribunal regarding the payment of compensation as well as not discharging effluents in violation of norms. The MPCB has also not ensured stopping of violation of law.
9. Faced with the above, learned counsel for the MIDC has stated that within 15 days only 10 MLD effluents will be received which can be treated and remaining amount of effluents will not be received by CETP. Learned counsel for MPCB has also made a similar statement that this arrangement will be enforced and necessary order passed. We take the statements on record but we have no answer why it has not been done so far and why violation of law has been allowed to continue.
10. Even though for clear violation of law and the order of this Tribunal, we are inclined to direct civil imprisonment of the CEO of MIDC and Deputy CEO (Environment), MIDC as well as Member Secretary, MPCB, however, taking liberal view, in view of the statement that by 30.09.2019 compliance of orders of this Tribunal in respect of deposit of compensation in accordance with the terms of Agreement as well as stopping of

discharge of polluting effluents will be ensured. We direct that MIDC is liable to deposit further sum of Rs. 5 Crores for causing pollution after its taking over of CETP operation around 01.11.2018 till date. We further direct that if the remaining amount of compensation as per earlier orders as well as the current amount is not deposited by 30.09.2019, salary of CEO, MIDC, Deputy CEO (Environment), MIDC and Member Secretary, MPCB be stopped till compliance.

11. Let a further compliance report be filed by CEO, MIDC and Member Secretary, MPCB on or before 15.10.2019 by e-mail at judicial-ngt@gov.in.
12. The amount of compensation may be recovered from the members contributing to the effluent as per agreement but failure of the members to deposit will not be a ground not to make the deposit which will remain basic responsibility of MIDC.
13. In view of further developments after passing of the order dated 17.08.2018, the Monitoring Committee may conclude its proceedings by 30.09.2019 and file its final report before 15.10.2019.
14. The joint Committee of CPCB and MPCB may verify status of discharge of effluents on the site as on 15.10.2019 and furnish a report to this Tribunal by e-mail at judicial-ngt@gov.in by 31.10.2019.

15. A copy of this order be sent Chief Secretary, Maharashtra and CPCB for necessary action by e-mail.

List for further consideration on 04.11.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

September 03, 2019
Original Application No. 125/2018
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