

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO.17 OF 2011

Nicholas H. AlmeidaPetitioner

v/s.

State of Maharashtra and ors. ...Respondents

Mr.G.R.Joshi with Mr.Vishal Kanade and Ms.Kaushika Muthukumar i/b
RMG Law Associates for the petitioner.

Mr.J.J.Saluja, AGP for State.

Mr.Prashant Chavan and Ms.Shyamali Gadre i/b Little & co. for
Respondent No.2.

Mr.Nitin P. Deshpande with Ms.Rachana Chavan for Respondent No.3.

Ms.Madhubala Kajle for Respondent No.4.

Mr.C.M.Lokesh for Respondent No.5.

Dr.Sadhana Mahashabde for Respondent No.6.

Dr.Birendra Saraf i/b Federal Rashmikant for Respondent No.8.

Mr.Harshad Bhadbhade with Mr. G.C.Mogre and Mr.Saurabh Butala i/b
Swati Sawant for Respondent No.11.

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**CORAM: MOHIT S. SHAH, C.J. &
N.M. JAMDAR, J.**

DATE : 5 July 2012.

P.C.

Affidavit dated 4 July 2012 has been filed by the Regional
Officer (HQ) and Incharge Joint Director (Water Pollution Control) of
MPCB. Along with the affidavit the reports about the effluents being
discharged into the CETPs of the following five associations are also
given:-

- (i) Lote Parshuram Environment Protection Co-operative society Ltd. P-10, MIDC Lote, Taluka:Khed, District:Ratnagiri;
- (ii) M/s.Greenfield CETP Plant Pvt.Ltd., P-17, MIDC Chincholi, District: Solapur;
- (iii) Badlapur CETP Association, Plot No.OS-4, MIDC Badlapur, District: Thane;
- (iv) Chikhholi-Morivali Effluent Treatment, P-17, MIDC Morivali, Ambernath, District: Thane;
- (v) Tarapur Environment Protection Society CETP, Plot No.AM-29(Pt.), MIDC Tarapur Boisar, District: Thane;

2. From the perusal of the said reports, it appears that the CETPs are not in a position to comply with the statutory norms.

3. In view of the above, it is directed that the associations running CETP shall inform the MPCB about the highly polluting industries and the MPCB shall take appropriate action against such units in accordance with law. While taking such action, the MPCB shall also inform the concerned associations running CETP about such action being taken. For instance, if directions for closure to highly polluting industries are issued by the MPCB, a copy of all such directions shall also be served on the associations running CETP, so that the concerned association can monitor compliance or otherwise with such closure direction. The associations shall send particulars about such highly polluting industries to the MPCB within four weeks from today and thereafter MPCB shall inform the concerned associations about the action being taken against the highly polluting industries, which shall also be done within four weeks thereafter.

4. If the highly polluting industries are allowed to discharge effluents which do not meet with the norms, the ultimate action of closure of CETP will result into closure of all the industries in that area. The MPCB shall, therefore, take serious note of any information about highly polluting industries received from the associations, as also on its own by carrying out surprise visits and taking samples of effluents being discharged by the industries. In order to comply with the above directions, the associations running CETP will be at liberty to take samples of the effluents of the industries which the associations consider to be highly polluting having potential for high pollution. The associations shall also take into consideration the affidavit filed on behalf of MPCB. The associations running the CETP will also be at liberty to make appropriate arrangements and to direct their respective members to make appropriate arrangements to see that the effluents being discharged by individual unit are segregated in such a manner that the association and MPCB will be in a position to find out the highly polluting industries.

5. In order to ensure compliance with the provisions of Environment Protection Act, 1986 and the Regulations framed thereunder as well as under the other laws for protection of environment, we issue following directions to each of the 5 CETPs mentioned in the first para of this order :-

(1) The association running CETP shall ensure that the effluents being received from the chemical industries meet with the inlet norms for the CETP, so that after the treatment, the CETP is able to release the treated effluents within the permissible norms.

(2) In case the association running CETP finds that the effluents being sent by an individual industrial unit into the CETP inlet are carrying such high pollution load that CETP will not be in a position to treat the same for the purpose of meeting with the CETP outlet norms, the association shall discontinue receiving such effluents from the concerned individual industrial unit after giving prior notice and thereupon the concerned industrial unit shall stop all manufacturing activities.

(3) For ensuring effective compliance with the above direction, the MIDC and the association shall make necessary arrangements for providing sumps for storing effluents being received from individual industry for the purpose of treatment in the CETP. It is made clear that even before such sumps are provided, directions nos.(1) and (2) above may be given and shall be complied with by the concerned industrial unit.

(4) Hereafter any industrial unit having its own effluent treatment plant shall not carry on any manufacturing activity whenever its effluent treatment plant is not functioning for any reason whatsoever, whether for maintenance, repairs or for any reason whatsoever.

(5) Similarly, whenever the CETP is not functioning for any reason whatsoever, the association shall call upon its members to stop manufacturing activities and the manufacturers shall thereupon stop their manufacturing activities.

(6) With effect from 1 August 2012 each industrial unit having its own effluent treatment plant shall have a separate electric meter for its effluent treatment plant.

6. Having regard to the provisions of section 9 of Water (Prevention & Control of Pollution) Act, 1974, the MPCB shall consider constituting a committee for each of the five MIDC estates, consisting of its members and other persons for monitoring the functioning of the CETP and also for industrial units within the MIDC estates. This shall be done as expeditiously as possible and preferably within four weeks from today.

7. It is clarified that this direction does not preclude the MPCB from constituting committees for other areas.

8. In the affidavit dated 1 March 2012, the Secretary, Environment and Forest Department of the Maharashtra Government had made the following statement:-

“I further say that, if existing facilities such as CETP or pipelines for collection and disposal are not maintained properly to achieve the stipulated discharge standards, this provision of setting up of industries beyond (sic- within) 750 meters in A-II class will not be made applicable to MIDC”.

9. If the existing facilities such as CETP or pipelines are not maintained properly to achieve the stipulated discharge standards by 31 August 2012, the MIDC shall not permit setting up of industries within 750 meters of a river in A-II class from 1 September 2012.

10. Stand over to 30 August 2012.

CHIEF JUSTICE

(N.M. JAMDAR, J.)