

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

PUBLIC INTEREST LITIGATION NO.17 OF 2011

Nicolas H. Almeida

... Petitioners

Versus

State of Maharashtra and others.

... Respondents

Mr. G.R. Joshi with Mr. Vishal Kanade and Mr. Hemang Rayathertha i/by M/s. RMG Law Associates for the petitioners.

Mr. J.S.Saluja, Assistant Government Pleader for State.

Mr.Prashant Chavan and Shyamali Gadre i/by M/s. Little & Co. for respondent No.2.

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

Mr.Nitin Deshpande for respondent No.3.

Mr.Milind Mhaiskar, Member Secretary, Maharashtra Pollution Control Board.

Mr. Kshatrapati Shivaji, CEO, MIDC.

Dr. B.N. Patil, Director (Environment)

Mr.D.P. Devla, Senior Law Officer, Maharashtra Pollution Control Board.

Dr. A.R.Supate, Principal Scientific Officer, Maharashtra Pollution Control Board.

Dr. Rakesh Kumar, Director, NEERI.

Mr. K.P. Nyati, CEO, sustainable Mining Initiative.

Mr. Suresh Bhosale, President, Mahad Manufacturers Association.

Dr. G.R.Sharma, Special Counsel with Ms. Madhubala Kapil for Union of India.

Dr. Sadhana Mahashabde for Mahad Manufacturers Association.

**CORAM : MOHIT S. SHAH, C.J. &
SMT. ROSHAN DALVI, J.**

Friday, March 30, 2012

P.C.

Having gone through the affidavit dated 27 March 2012 of Regional Officer and Incharge Joint Director (Water Pollution Control) of the Maharashtra Pollution Control Board as well as the affidavit-in-reply dated 29 March 2012, filed by the President of Mahad Manufacturers Association, it

appears that the performance of CETP in MIDC, Mahad has improved but CEPT is still not able to fully achieve all the MPCB norms. The Mahad Manufacturers Association and Members Industrial Units in MIDC, Mahad shall continue their efforts to improve the performance of their effluent treatment plants and the common effluent treatment plant and report on the performance of CETP and ETPs of units permitted by MPCB to restart, alongwith the analysis of the reports of the effluent samples collected by MPCB and Mahad Manufacturers Association separately shall be placed on record for the period from 1 April 2012 to 25 April 2012 on the next date of hearing which shall be 3 May 2012.

2. As regards implementation of the directions for providing sumps for collection of effluents from individual industrial units in MIDC estates, Mahad, the Executive Engineer, MIDC states that MIDC proposes to take steps repairs for providing closed sumps within a period of six to nine months and that the decision at the appropriate level will be taken regarding the generation of funds and agencies to be fixed and the time schedule of work to be done.

3. It appears from the presentation made by the Member-Secretary, MPCB and the affidavit on behalf of MPCB that performance of 26 CETPs in MIDC estates in the State is as under:-

- (I) CETPs, which are overall complying with the Environmental Norms and Standards laid down under the provisions of the Environment (Protection) Rules, 1986/Consent Standards (having fluctuation (exceeding standards) upto 10% overall compliance of basic standards such as : pH, BOD, COD & Suspended Solid etc.)

After going through the monitoring of all the CETPs except Mahad in the State of Maharashtra, it has been observed that total 6 CETPs have been found to be overall complying with the standards, having complied with 3 out of 4 main

parameters of CETP and 1 parameter slightly exceeding, therefore, treated as overall complied with the Environmental Norms, out of 21 working CETPs.

- (II) CETPs, which are overall complying with the Environmental Norms and Standards laid down under the provisions of the Environment (Protection) Rules, 1986/Consent Standards (having overall fluctuation (exceeding standards) in the parameters of pH-5.5 to 9.0, BOD- upto 500 mg/l. Against 100 mg/l. Standard, COD- upto 750 mg/l. Against 250 mg/l. Standard and Suspended Solids- upto 300 mg/l. against 100 mg/l.)

After going through the monitoring of all the CETPs except Mahad in the State of Maharashtra, it has been observed that total 9 CETPs have been found to be overall complying with the standards having the exceedance mentioned above, which can be said to be medium violating standards of CETPs, out of 21 working CETPs.

- (III) CETPs, which are not complying with the Environmental Norms and Standards laid down under the provisions of the Environmental (Protection) Rules, 1986/ Consent Standards (having overall fluctuation (exceeding standards) in the parameters of pH-5.5 to 9.0, BOD- above 500 mg/l. Against 100 mg/l. Standard, COD- above 750 mg/l. against 250 mg/l. standard and Suspended Solids- above 300 mg/l. against 100 mg/l.)

After going through the monitoring of all the CETPs except Mahad in the State of Maharashtra, it has been observed that total 6 CETPs have been found to be highly non-complied with the standards having the exceedance mentioned above, which can be said to be highly violating standards of CETPs, out of 21 working CETPs.

I say and submit that 4 CETPs, (namely : (1) Tarapur Industrial Manufacturers Association-CETP of 2 MLD capacity, which has been diverted to the newly established and operated 25MLD CETP; (2) Ambarnath MIDC CETP Co.Pvt.Ltd. (Bharat Udyog Ltd.) of 7 MLD capacity; (3) Ichalkaranji Textile Development Cluster Ltd. Of 1.2 MLD

capacity; & (4) Krishna Valley Enviro-Tech Pvt.Ltd., MIDC Kupwad, Dist: Sangli of 1.5 MLD capacity), are yet to be made operational on account of their own difficulties.

Accordingly, the Respondent-Board is initiating appropriate directions to them by extending an opportunity of hearing and thereby, obtaining necessary time bound programs duly supported by the bank guarantees, to ensure that time bound Action Plans are implemented.

I say and submit that considering necessity in strengthening of CETP Facilities, the CETPs have been asked to follow scrupulously the following conditions:

- (i) CETP operator shall carry the required treatment to meet final effluent quality standards for CETPs and shall be responsible for O & M operations.
- (ii) CETP operator monitor specified quality outlet parameters and flow rate on daily basis and submit the monitoring data to the MPCB on regular basis. Parameters to be specified by SPCCB shall be monitored by the CETP operator online at outlet of a CETP and IT based linkage shall be provided by the operator to the SPCB. The SPCB shall ensure that continuous 24 hour data is displayed on its website.
- (iii) A three tier monitoring mechanism viz. At industry level, monitoring by SPCB and third party monitoring shall be undertaken.
- (iv) The CETP operator shall furnish a suitable bank guarantee to the SPCB for the satisfactory performance of the CETP.

I say and submit that the Maharashtra Pollution Control Board has restarted placing the Reports on Monitoring of CETPs in the State of Maharashtra on the website of the Board (<http://www.mpcb.gov.in>)

4. On the next date of hearing, the MPCB shall also place on record a report indicating the summary of the performance of the respective CETPs and the action taken against the highly polluting industries.

5. MPCB has placed on record the revised guidelines for the Centrally sponsored scheme of Common Effluent Treatment Plants issued by the Ministry of Environment & Forests. The guidelines are taken on record and marked 'X' for identification purposes. The guidelines shall also be circulated by MPCB to all the associations running CETPs.

6. Dr. Rakesh Kumar of NEERI is present at the hearing and states that NEERI is prepared to make necessary suggestions to MPCB to monitor CETPs as well as highly polluting individual industries and to require the concerned manufacturers associations in the respective MIDC estates to monitor individual units for achieving the MPCB norms in the regular course without requiring any external monitoring. In order to ensure that such suggestions are formulated and communicated to the MPCB, NEERI officers, MPCB officers and MIDC officers shall have a joint meeting within 10 days from today and the suggestions made at such meeting shall be acted upon by MIDC as well as MPCB and a report shall be submitted by Dr. Rakesh Kumar of NEERI to MPCB. Thereafter the decision of the competent authority will be placed on record on the next date of hearing.

Stand over to 3 May 2012 at 3.00 p.m.

The parties to act on an ordinary copy of this order duly authenticated by Court Associate.

CHIEF JUSTICE

SMT. ROSHAN DALVI, J.