

C.R.NO. 1183 /2014. Copy of Exh 01  
Date. 02/12/2014. For Private/Court use

Copy of In.C.C.No. 125/08 21/11/15  
On the file of C.M.J.M.F.C Buldana F.F./D.Date

--Vrs--

महाराष्ट्र X म.प. गणराज



**CHIEF**  
**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS AT BULDHANA**  
**DIST : BULDHANA**

**REGULAR CRIMINAL CASE NO...125...of 2008**

Maharashtra Pollution Control Board  
Kalpataru Point Bldg., 3<sup>rd</sup> & 4<sup>th</sup> Floor,  
Sion-Matunga Scheme Road No.8,  
Sion (East), MUMBAI-400 001  
(Represented by Shri A. T. Fulmali,  
Maharashtra Pollution Control Board  
Regional Officer-Amravati,  
"Ashirwad" Daffrin Road, Shrikrishna Peth,  
Amravati.

Exh. d

... Complainant

V/s

- 1) M/s.Gajanan Baba Bio Medical Waste  
Common Bio-Medical Waste Facility,  
S.No.400, At Bhadola,  
Tal and Dist: Buldhana
- 2) Shri Sushil Gadhe,  
Proprietor,  
M/s.Gajanan Baba Bio Medical Waste  
Common Bio-Medical Waste Facility,  
S.No.400, At Bhadola,  
Tal and Dist: Buldhana

... Accused.

Put up for  
verification on  
21-11-15  
at 11:00 Am  
C.M.  
3-6-08

Complaint under Section 15 of  
the Environment (Protection) Act,  
1986 read with Rules 4, 5, 6 & 8  
Of the Bio-Medical Waste  
(Management & Handling) Rules,  
1998 (as amended on 6/3/2000,  
2/6/2000 and 17/09/2003).

**MAY IT PLEASE IN YOUR HONOUR**

- (1) THAT, the Maharashtra Pollution Control Board is a statutory body constituted under the provisions of the Water (Prevention & Control of Pollution) Act, 1974. The Board is responsible for implementation of the provisions of various Environmental Legislations including the Environment (Protection) Act, 1986 and Rules made thereunder.
- (2) The Complainant-Board is represented by Shri A. T. Fulmali, Regional Officer of the Maharashtra Pollution Control Board at Amravati, who is

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having his office at the above address and he is in charge of Amravati Region under whose jurisdiction, the Accused No.1 Common Bio-Medical Wastes Facility is situated. He is the public servant within the meaning of Section 21 of the Environment (Protection) Act, 1986 and the Indian Penal Code. The Ministry of Environment and Forests, Govt. of India vide Notification bearing S.O.394 (E) published in Gazette No.185 dated 16/4/1987 and S.O. 237 (E) published in Gazette No.171 dated 29/3/1989 has authorized the Regional Officers of the State Pollution Control Board. (who have been delegated with the powers under Section 24 of the Air (Prevention & Control of Pollution) Act, 1981 by the Board ) to file complaint under Section 19 of the Environment (Protection) Act, 1986. A copy of the resolution passed in Board's 77<sup>th</sup> Meeting held on 6/11/1987 and copy of the Notification dated 16/4/1987 are annexed herewith and marked as an Annexure-I collectively. It is submitted that the Board has delegated the powers of entry and inspection under Section 24 of the Air (Prevention & Control of Pollution) Act, 1981 to the Regional Officers of the Board.

- (3) The Central Govt. in exercise of the powers conferred by Section 6, 8 & 25 of the Environment (Protection) Act, 1986 has made the rules to regulate the management and handling of bio-medical waste, namely, the Bio-Medical Waste (Management and Handling) Rules, 1998, which are amended on 6/3/2000, 2/6/2000 and 17/09/2003 (hereinafter referred to as the said rules). These rules shall apply to all the persons, who generate, collect, receive, store, transport, treat, dispose or handle bio-medical waste in any form. It shall be the duty of every occupier of an institution generating bio-medical waste or an operator of bio-medical waste treatment facility to take authorization from the Board and further to take all steps to ensure that such waste is handled without any adverse effect to human health and the environment.

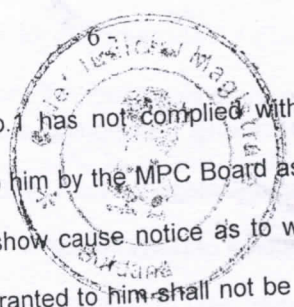
- (4) The said rule prescribe the scope of application, definitions and the duties of the occupier, prescribed authority and the Government. Rule 2, specifies that these rules apply to all persons who generate, collect, receive, store, transport, treat, dispose or handle bio-medical waste in any form. Rule 4, specifies the duty of the occupier of an institution generating bio-medical waste including Hospital, Nursing Homes, Clinics, Dispensaries, Veterinary Institutions, Animal Houses, Pathological Laboratories, Blood Banks, to take all steps to ensure that such wastes are handled without any adverse effect on human health and environment. Rule 5 specifies the treatment and disposal options of Bio-Medical Waste. It specifies that every occupier shall treat and dispose of such wastes, as specified in the Schedule-I read with standards laid down in Schedule-V. Every occupier, where required, shall set up, in accordance with the time schedule in Schedule VI, requisite bio-medical waste treatment facilities like incinerator, autoclave, microwave system for the treatment of the waste, or ensure requisite treatment of waste at a common waste treatment facility or any other waste treatment facility. Rule 6 specifies method of segregation, packing, transportation and storage of bio-medical waste. Rule 7 specifies the role of State Government and the prescribed Authority. Rule 8, specifies the procedure for obtaining the authorization from the competent Authority. Therefore, every occupier handling such waste and providing services to 1000 or more patients per month is required to obtain authorization from the prescribed authority. Rule 9 specifies formation of Advisory Committee by the State Government for advising the State Government and the prescribed Authority on the matters related to implementation of these rules. Rule 10 specifies the duty of the occupier/operator toward submission of Annual Report. Rule 11 specifies about the maintenance of Record. Rule 12, specifies that every occupier shall

report any accident to the prescribed Authority. Rule 13, specifies about the submission of Appeal against the orders of the prescribed Authority.

These Rules were amended on 6<sup>th</sup> March, 2000 for amending Schedule-VI to give an extension in time frame for compliance of the said rules. These rules have been further amended on 2<sup>nd</sup> June, 2000 and 17<sup>th</sup> September, 2003. The copies of the Notification 20/07/1998 alongwith the amendments are enclosed herewith and marked as an **Annexure-II** collectively.

- (5) THAT, the complainant submit that the Accused No.1 is operating a Common Bio-Medical Waste Facility in the name and style of M/s.Gajanan Baba Bio Medical Waste at S.No.400, at Bhadola, Tal and Dist: Buldhana. The Accused No.2 is the owner of Accused No.1 and in that capacity, he is the person incharge of and responsible for conduct of the said facility and for non-compliance of the provisions of the said Act.
- (6) THAT, the Accused No.1 has made application to the Maharashtra Pollution Control Board for operating a facility for collection, reception, storage, transportation, treatment and disposal of bio medical wastes under Rule 7 (5) of the Bio-Medical Waste (Management & Handling) Rules, 1998, as amended from time to time, which was received to the Sub-Regional Officer, MPCB, Akola on 19/07/2006. The Board has granted authorization under the above Rules to the Accused No.1 vide No.MPCB/ROHQ/BMW-Amravati-27/2006, dtd.18/10/2006, imposing certain terms and conditions upon him. Copies of the application alongwith authorization are annexed herewith and marked as an **Annexure-III** collectively.

- (7) THAT, the Accused No.1 is collecting, receiving, transporting, storing, disposing & handling bio-medical wastes of Category Nos.1, 4, 6 & 7 of bio-medical waste mentioned in Schedule-I of BMW Rules.
- (8) THAT, the Police Inspector, Crime Investigation Deptt., Buldhana Branch vide their letter dtd.22/1/2008 informed that the 4 infant bodies were found in the Common Bio-Medical Waste Site of M/s.Gajanan Baba Bio Medical Waste. A copy of the said letter is annexed herewith and marked as an Annexure-IV. A news is also appeared in this regard in Daily Newspapers Akola, namely "Dainik Deshonnati" dtd.24/07/2007. A copy of the newspaper cutting is annexed herewith and marked as an Annexure-V. The said complaint was investigated by the Regional Officer, MPBCB, Amravati on 25/07/2007 and he reported that the Accused No.1 has failed to comply with the conditions of the authorization granted by the Board. He has also reported that Accused No.1 has provided deep burial facility containing BMW namely syringes, needles, IV set, plastic bottles, cloth, waste cotton, paper waste, injections, glass bottles, rubber etc. The waste in deep burial pit was found in burning condition. Smoke was emitting due to ~~burning~~ of waste. A copy of the said report is annexed herewith and marked as an Annexure-VI
- (9) THAT, the Regional Officer of the Board at Amravati has issued show cause notice vide letters dtd.2/6/007, 30/07/2007 for non-compliance of the Authorization granted by the Board under the above rules. Accused No.1 has submitted the reply to the show cause notice vide their letter dated NIL, which was received by the Regional Officer, MPCB, Amravati on 15/08/2007, wherein he has admitted that they have not provided adequate facility for disposal of bio-medical waste. Copies of the said show cause notice and reply thereof are annexed



(10) THAT, the Accused No.1 has not complied with the conditions of Authorization granted to him by the MPC Board as mentioned above, the Board has issued show cause notice as to why the Bio-Medical Wastes Authorization granted to him shall not be ~~revoked~~ and why shall not be directed to stop existing deep burial facility vide letter bearing No.MPCB/RO(HQ)/BMW/B-3884, dtd.31/07/2007. A copy of the said show cause notice is annexed herewith and marked as an Annexure-VIII.

(11) That, the Board has issued directions u/s 5 of the Environment (P) Act,1986 on 18/2/2008 and wherein directed to Accused No.2 to stop the common deep burial facility and not to restart without prior permission of the Board . The Accused No.2 has failed to reply to the said directions. A Copy of the directions is annexed herewith and marked as Annexure-IX. Thereafter the Sub-Regional Officer, MPCB, Akola has visited to the accused BMW facility on 18/3/2008 and reported that the said facility is closed. A copy of the said visit report dtd.19/3/2008 is enclosed herewith and marked as an Annexure-X.

(12) THAT, the Accused have thus jointly and severally committed an offence punishable under Section 15(1) of the Environment (Protection) Act, 1986 read with Rules 7 & 8 of the Bio-Medical Waste (Management and Handling) Rules, 1998 (as amended).

(13) THAT, the offence is committed within the jurisdiction of this Hon'ble Court and is punishable with imprisonment for a term, which may extend to 5 years or with fine, which may extend to Rs.1 Lakh rupees or with both. Hence, the complaint is filed before this Hon'ble Court.

(14) In view of the aforesaid facts and circumstances, it is respectfully prayed that process may be issued against the above accused under Section 15(1) of the Environment (Protection) Act, 1986 read with

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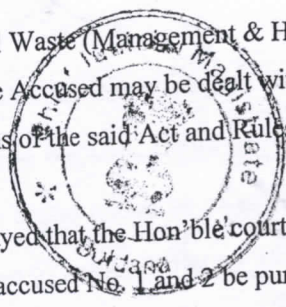
o  
 This is private complaint, instituted otherwise <sup>them</sup> on police report. Here the procedure prescribed 4/15/244 of Cr.P.C. is to be followed. But in this case inadvertently charge is framed. However in the interest of Justice matter is kept for EBC

MS  
 15/11/14

o  
 Issue of BW against accused No. 2 as well as proclamation against him. Issue notice to surety.

MS  
 18/12/14

Rules 7 & 8 of the Bio-Medical Waste (Management & Handling) Rules, 1998 (as amended). The Accused may be dealt with in Accordance with the provisions of the said Act and Rules.



**Prayer** 1) It is therefore prayed that the Hon'ble court be pleased to Allow the complaint and both accused No. 1 and 2 be punished as per the provision of law and also hold that, the Accused have thus jointly and severally committed an offence punishable under Section 15 (1) of the Environment (Protection) Act, 1986 read with Rules 7 & 8 of Bio-Medical Waste(Management and Handling) Rules (as amended).  
2) Any other relief which the Hon'ble court deems fit and proper looking to the facts and circumstance of the case.

Filed on: 03/06/2008

*Vinod R. Malviya*

Vinod R. Malviya  
Advocate for Complainant-Board

*A.T. Fulmali*  
(A.T. Fulmali)

Regional Officer-Amravati  
Maharashtra Pollution Control Board

**LIST OF WITNESSES**

- 1) Shri A. T. Fulmali,  
Regional Officer-Amravati,  
Maharashtra Pollution Control Board
- 2) Shri R. Bandappa,  
Sub-Regional Officer-Akola,  
Maharashtra Pollution Control Board,  
Near S.B.I. ( Treasury Br.), Shastri Nagar, Akola.
- 3) Shri G. K. Ane,  
Police Inspector,  
C.I.D., Buldhana Br., Buldhana.
- 4) Any other witness to be examined with the permission of this Hon'ble Court.

*From MPO against  
accused no 2.  
ms  
07/10/15*

*MSW against accused no 2*



RGC/NO 125/08

Complaint presented by Shri. Ajay  
Tulshiram Fulmali 04-06-08

at 11:00 AM U.S. 15 E.P. Act 1986

at 11:00 AM U.S. 15 E.P. Act 1986  
at 11:00 AM U.S. 15 E.P. Act 1986

4/6/08

04-06-08

Peruse the Complaint, affidavit and documents filed on the record.

Limafac case is under and against the and punishable

4/5/15 of Environment Protection Act 1986

Act 1986 also Rules 4, 5, 6 and Bio

Medical Waste Management and Handling Rules 1998; on payment of P.F.

4/6/08

Recuside copy

21/4/2014



C.C.No. 125/2008  
Maharashtra x Sushil

**ORDER BELOW EXH.1**

The Hon'ble High Court by High Court letter No. Insp.-I/216/2014 dated 04/09 September, 2014, pleased to direct to conduct special "Pendency Reduction Drive" during 01/09/2014 to 31/12/2014. Further the Hon'ble High Court by the letter No. N/IB/412/2014 dated 30/09/2014 directed to dispose of this 5 years old proceedings which is pointed out during the inspection of this Court in December, 2013. This case is kept on Special Board.

2. This is a complaint case instituted otherwise than on police report for the offence punishable under section 15(1) of the Environment (Protection) Act 1986 read with Rules 7 and 8 of the Biomedical Waste (Management and Handling) Rules 1998 (As amended). Today the learned counsel for the complainant and the witness namely Shri Bandappa were present before the Court till 11.45 a.m. The adjournment application filed by the complainant vide Ex.40 is rejected. The record shows that since 5/11/2014 this matter is pending for evidence before charge. On 15/11/2014 the complainant appeared before the Court but he did not adduce his evidence on that day and he sought time to lead his evidence. Accordingly, time was granted and matter is kept today. But the complainant failed to adduce his evidence today. The learned counsel for the complainant and the witness

R.C.C.No. 125/2008  
Maharashtra x Sushil

... ..  
Shri Bandappa are absent when called out till 5.30 p.m. It shows that the complainant has not examined the witness Shri Bandappa though he was present before the Court in morning session. The complainant has not made out a case which if unrebutted would warrant the conviction of the accused. Therefore, I pass the following order.

**ORDER**

- 1) Accused No.2 Sushil Gadhe, Proprietor of M/s Gajanan Baba Biomedical Waste is hereby discharged from the offence punishable under section 15(1) of the Environment (Protection) Act 1986 read with Rules 7 and 8 of the Biomedical Waste (Management and Handling) Rules 1998 (As amended) vide Section 245 of the Code of Criminal Procedure.
- 2) His bail bond stands cancelled. He is set at liberty.

Buldana  
Date : 21/11/2014

*Smt. S.D. Soni*  
21/11/14  
**(Smt.S.D.Soni)**  
Judicial Magistrate, F.C.,  
Buldana.

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or

**True Copy**  
*Smt. S.D. Soni*  
Asstt. Supdt.  
To C.J.M. Bulda  
10/12/14

The date on which application was received ... .. 02/12/14

... .. 02nd day of Decrly Two Thousand ... .. 10/12/14

The date on which application is filed to appear on ... .. 10/12/14

... .. 10th Decrly ... .. 10/12/14

The date ... .. 10th Decrly ... .. 10/12/14

... .. 10th Decrly Two Thousand ... .. 10/12/14