

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

Original Application No. 820/2022

1. NAVEEN KUMAR

S/O Sh. Rajpal Sing
R/o Gagsona, Post Phalawda
Chaupal, Phalauda,
Meerut,
Uttar Pradesh - 250401

Applicant

Versus

1. UNION OF INDIA

Through Its Secretary
Ministry of Environment, Forests and Climate Change
Paryavaran Bhawan, Jorbagh New Delhi-03
Socy-moef@nic.in
011-20819316.

2. CENTRAL POLLUTION CONTROL BOARD

Through Its Member Secretary,
Paryavaran Bhawan East Arjun Nagar
Delhi-110032
mscb.cpcb@nic.in

3. STATE OF HIMACHAL PRADESH

Through Chief Secretary
Secretariat Office Shimla
Himachal Pradesh
cs-hp@nic.in

4. HIMACHAL PRADESH STATE POLLUTION CONTROL BOARD

Through Member Secretary
Paryavaran Bhawan Phase-III, Below BCS, New Shimla
msspcb-hp@nic.in

5. PRINCIPAL SCIENTIFIC OFFICER

Himachal Pradesh State Pollution Control Board
Sector-IV, S.C.F.6-8, HPSEP & PCB, Parwanoo, Solan,
Himachal Pradesh

6. DEPARTMENT OF TOWN AND COUNTRY PLANING

Through Chief Executive Officer
Yojna Bhawan, Block N. 32A, SDA Complex
Vikas Nagar, Shimla, Himachal Pradesh – 171009
tcp-hp@nic.in

7. District Magistrate, Una

DM Office, Una, Himachal Pradesh
dc-una-hp@nic.in

8. SHIVALIK HOSPITAL

Through Medical Officer
Jhalera, Block-Amb, District – Una
Himachal Pradesh

Respondents

Counsel for the Applicant:

Mr. Gaurav Kumar Bansal, Ms. Nandita Bansal and Ms. Chandrika Upadhyay, Advocates for the Applicant (through VC).

Counsel for the Respondents:

Mr. Jasmeet Singh, Advocate for respondent no 1.

Ms. Soni Singh, Advocate for Respondent no 2 (through VC).

Ms. Inderdeep Kaur Raina, Advocate for respondents no. 3, 6 & 7.

Mr. Aditya Vijaykumar and Mr. Anirudh Anand, Advocates for respondents no 4 & 5 (through V.C).

Mr. A. R. Takkar, Mr. Manan Takkar, Ms. Astha Tyagi and Mr. Yash Dewan, Advocates for respondent no. 8 (through VC).

PRESENT:

HON’BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON’BLE DR. AFROZ AHMAD, EXPERT MEMBER

Judgment Reserved on:- 23.09.2025

Judgment pronounced on:- 08.10.2025

Judgment

PRONOUNCED BY: HON’BLE MR. JUSTICE ARUN KUMAR TYAGI, JM

1. Mr. Naveen Kumar, S/o Rajpal Singh, R/o Gagsona, Post Phalawda Chaupal, Meerut, Uttar Pradesh, has filed the present application under Section 14 of the National Green Tribunal Act, 2010 (NGT Act, 2010) seeking the following reliefs:

“a. Direct Himachal Pradesh State Pollution Control Board to close the operation of Respondent no.8.

b. Direct the Department of Town and Country Planning to take action against respondent no.8 as the same is operating in Non-Conforming Area.

c. Direct the Himachal Pradesh State Pollution Control Board to act impose Environmental Compensation on the basis of Polluter Pays Principle.

d. Pass any other Order or Direction as this Hon'ble Tribunal feels fit and proper."

Grievances of the applicant

2. The applicant has submitted that respondent no. 8 is running a 10 bedded hospital at District Una, Himachal Pradesh. Respondent no. 8 falls within the definition of "Occupier" under Rule 3(m) of the Bio Medical Waste Management Rule, 2016 (BMWM Rules, 2016) and was required to obtain authorization from Himachal Pradesh State Pollution Control Board (HPSPCB) under Rule 10 of the BMWM Rules, 2016. Respondent no.8 was also required to obtain Consent to Establish/Consent to Operate (CTE/CTO) from HPSPCB. Respondent no. 8 has not obtained the requisite authorization under Rule 10 of the BMWM Rules, 2016 and consent under the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act, 1974). HPSPCB had also issued letter dated 27.07.2017 to respondent no. 8 in this regard. The Applicant has further submitted that respondent no. 8 has established the above hospital in contravention of the Master Plan issued by the Department of Town and Country Planning, Government of Himachal Pradesh and is carrying on its activity in residential plot which is a non-conforming area as far as the operation of the hospital is concerned.

3. Vide order dated 18.12.2022, this Tribunal ordered issuance of notice to the respondents.

4. Pursuant to service of notice, replies have been filed by respondent no.1 vide email dated 18.01.2023 (pages no. 48 to 98 of the paper book), respondent no.2 vide email dated 20.01.2023 (pages no. 140 to 202 of the paper book), respondents no. 4 and 5 vide email dated 18.01.2023 (pages no. 18 to 47 of the paper book), respondent no.7 vide email dated 20.01.2023 (pages no. 99 to 139 of the paper book) and respondent no.8 vide email dated 21.01.2023 (pages no. 203 to 289 of the paper book).

Reply filed by respondent no. 1-MoEF&CC

5. In its reply filed vide email dated 18.01.2023, respondent no.1- Ministry of Environment, Forest and Climate Change (MoEF&CC) has referred to the provisions of the Biomedical Waste (Management and Handling) Rules, 1998 [BMW(M&H) Rules, 1998], BMW Rules, 2016 and revised guidelines issued by the Central Pollution Control Board (CPCB) and mentioned that the SPCBs and the State Health Departments are the nodal agencies to ensure the enforcement and implementation of the BMW Rules, 2016.

Reply filed by respondent no. 2-CPCB

6. In its reply filed vide email dated 20.01.2023, respondent no.2-CPCB has referred to the provision of the BMW Rules, 2016 and submitted that the HPSPCB is the prescribed authority for ensuring implementation of BMW Rules, 2016 in the State of Himachal Pradesh. Respondent no.2-CPCB has further submitted that respondent no.2-CPCB is not aware about the location of respondent no.8-Hospital and has no mandate for reviewing the location criteria for hospital.

Reply filed by respondent no. 4-HPSPCB and respondent no.5-Principal Scientific Officer, HPSPCB

7. In their reply filed vide email dated 18.01.2023, respondent no.4- HPSPCB and respondent no.5- Principal Scientific Officer, HPSPCB have submitted that as per record the HPSPCB had granted authorization to respondent no. 8 on 06.11.2006 which was renewed from time to time and was last renewed on 21.03.2015 which was valid up to 31.03.2017. Vide notification dated 28.03.2016, MoEF&CC enacted the BMW Rules, 2016 in supercession of the BMW(M&H) Rules, 1998. As per Rule 10, respondent no. 8 was required to obtain consent under the Water Act, 1974 and authorization under the BMW Rules, 2016 from HPSPCB. The Principal Scientific Officer, Central Laboratory, Parwanoo vide letter dated 27.07.2017 asked respondent no.8 to apply for consent under the Water Act, 1974 and authorization under the BMW Rules, 2016. Respondent no.8 applied for consent and authorization vide application dated 19.08.2017 and 22.08.2017. The Principal Scientific Officer, Central Laboratory, Parwanoo vide letter dated 19.12.2017 asked respondent no.8 to submit project report, copy of design/drawing of septic tank along with layout of pipe lines for chemical liquid waste and sewage and to provide pre-treatment system for disinfection/neutralization of chemical liquid waste generated in the hospital and vide letter dated 15.03.2018 asked respondent no.8 to deposit the prescribed fee. Respondent no.8 submitted fresh online application no. 5060025 dated 08.03.2022 on which CTE was granted by HPSPCB on 26.05.2022. Thereafter, on application no. 5060056 dated 17.03.2022, CTO was granted by HPSPCB on 16.08.2022. On online application no. 7258169 dated 24.09.2022, authorization under the BMW Rules, 2016 was granted by HPSPCB to respondent no. 8 on 12.12.2022. Respondent no. 8 entered into agreement with Bio Medical Waste Treatment Trust (BMWT) Plant Pvt. Ltd., Village Pangoli, Pathankot w.e.f. 07.07.2005 for transportation and disposal of bio-medical waste and

with M/s. Enviro Engineer (CBWTF) Industrial Area Pandouga, Una w.e.f. 01.04.2022 for collection/transportation/treatment and disposal of bio-medical waste. During the period of its operation, no complaint or matter regarding improper disposal of bio-medical waste or water pollution by respondent no. 8 came to the notice of HPSPCB. Respondent no.8 has installed STP of 3 KLD as per the BMW Rules, 2016 and as per the analysis report for the month of November 2022, the outlet of the STP is meeting the prescribed norms. In their reply respondents no. 4 and 5 have also submitted that FIR No. 4/2022 dated 31.03.2022 was registered under section 7 of Prevention of Corruption Act, 1988 against the then Chief Scientific Officer, Parwanoo and Officer-In-Charge for HCF by the State Vigilance and Anti Corruption Buearu, H.P. which was under investigation by the State Vigilance and Anti Corruption Buearu, H.P.

Reply filed by Respondent no.7, District Magistrate-Una

8. In his reply filed vide email dated 20.01.2023 respondent no.7-District Magistrate, Una has mentioned that as per report received from the Chief Medical Officer, Una vide his office letter no. HFW-Una (Court Cases)/2022-13028 dated 14.12.2022, Shivalik Hospital, Jhalera Una, Himachal Pradesh is registered under the Clinical Establishment Act, 2010 w.e.f. from 05.09.2022 valid up to 04.09.2023. Respondent no. 7 has also referred to the issuance of authorization, consent granted by HPSPCB and HCF agreements. In its reply respondent no. 7 has mentioned that as per the report received from the Assistant Town Planner, Sub Division Town Planning Office Una, District Una (H.P.) vide his office letter No. SADA (Una)-Case No. BP-630/2007-334 dated 05.12.2022, the Development Plan for Una Planning Area was approved by the Government of Himachal Pradesh vide notification No. TCP-F (5)-7/96 dated 23.04.1997. The

Development Plan of Una Planning Area is valid till March, 2023. As per Development Plan of Una Planning Area the land falling under Shivalik Hospital situated at Mohal Jhalera has been earmarked for residential use. He has further reported that as per clause 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) of Chapter Seven of Development Plan of Una Planning Area uses permitted in Residential Use are Residences, Hospitals, Boarding Houses, Nurseries, Kindergartens and Schools, Clinics, Social and Cultural Institutions, Public Utilities and buildings, except service and storage yards, agricultural gardens, nurseries and greenhouses, any neighbourhood recreational uses including clubs and other semi-public recreational uses, accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard. He has further reported that the building maps for the construction of Two Storeyed Residential building at Khasra No.1546/14, 1546/15, 1546/16, 1546/21, 1546/22 and 1546/23 as per Jamabandi for the years 2003-2004 of Mohal Jhalera Tehsil and District Una (H.P.) were approved vide No. SADA (Una) BP-630/2007-659 dated 22.11.2007 in the name of Shri Krishan Dass, Shri Akshay Kumar S/o Shri Krishan Das and Smt. Anupama w/o Sh. Akshay Kumar. The Shivalik Hospital is running in the building for which said maps were approved. The necessary directions under the provisions of the Himachal Pradesh Town & Country Planning Act, 1977 have been issued to the proprietor of the Hospital vide No. SADA (Una)- Case No. BP-630/2007-333 dated 01.12.2022. The Assistant Town Planner, Sub Division Town Planning Office Una, District Una has vide his notice No. SADA (Una)- Case No. BP-630/2007-333 dated 01.12.2022, directed the proprietor of respondent no.8 to submit the proposal/maps for obtaining the permission for change of building use failing which action under

Section 39 of the Himachal Pradesh Town & Country Planning Act, 1977 shall be initiated against him.

Reply filed by respondent no. 8-Shivalik Hospital

9. In its reply filed vide email dated 21.01.2023 respondent no. 8 has denied the averments made in the original application. The relevant part of the reply filed by respondent no. 8 reads as under:-

“REPLY ON BEHALF OF RESPONDENT NO.8 I.E. SHIVALIK HOSPITAL TO THE ORIGINAL APPLICATION FILED BY THE APPLICANT UNDER SECTION 18(1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010.

X

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1. That at the very outset it is most relevant and important to bring to the notice of this Hon'ble Tribunal that the present Original Application has been filed by the Applicant Shri. Naveen Kumar out of malafide and to wreak vengeance as a close friend and relative of the Applicant i.e. Mr. TB Singh (Ex Principal Scientific Officer, Himachal Pradesh Pollution Control Board), was gotten arrested red handily accepting a bribe of Rs. 3,70,000/- from the answering Respondent for granting Consents which the answering Respondent Hospital was even otherwise entitled to. The Applicant i.e. Shri. Naveen Kumar is a resident of Meerut (Uttar Pradesh) and Mr. TB Singh also belongs to UP having his house in Dehradun.

2. Despite having applied for Consent to Establish as well as Consent to Operate by way of an application complete in all respect along with requisite fees in the year 2018, the said Mr. TB Singh who was Principal Scientific Officer and was in charge of Una from the beginning started harassing the Respondent demanding money despite the fact that the hospital was fully compliant. After being fed up the answering Respondent approached the State Vigilance & Anti-Corruption Bureau Himachal Pradesh and with their help a trap was laid and Mr. TB Singh was caught red handed accepting a bribe of Rs.3,70,000/- and was taken into custody. Copy of the FIR 04/2022 against Mr. TB Singh is marked and annexed herewith as Annexure-R/ 1.

3. It is submitted that it is under these circumstances that the said Mr. TB Singh has gotten this Original Application filled through his relative Shri. Naveen Kumar just to harass the answering Respondent herein who in accordance with law is running a very small nursing home of 10 beds, wherein occupancy is hardly of 2-3 beds daily. That the Respondent herein has also recently got to know that the then Principal

Scientific Officer Mr. TB Singh purposely made sure that no communication in form of notices and letters issued by the Respondent Board, reached the Respondent herein.

X

X

X

X

5. BRIEF FACTS OF THE CASE:-

a. That upto the year 2013, the said premises i.e. two storeyed building was being solely used only for residential purpose. It was only in the year 2013 when it was decided to set up a 10 bed single storey hospital named "Shivalik Hospital" on the half width (right side half) of the land whereas, the other half (left side hall) of the premises was still to be used for residential purpose i.e. a double storeyed residential house. It is submitted that for the purpose of setting up a 10 bed hospital a No-objection was sought from the Office of Gram Panchayat, District Una, Uttar Pradesh and the same was granted to the Respondent herein on 07.06.2013. Copy of the No-objection certificate dated 07.06.2013 issued by the Office of Gram Panchayat, District Una, Uttar Pradesh is marked and annexed herewith as Annexure-R/2. It is in the humble submission of the answering Respondent herein that the complete building has been constructed as per the approved building plans.

b. That it is pertinent to mention herein that in respect of the provisions of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh, as per Clause/regulation 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) the uses permitted in the area earmarked for Residential Use are Residences, Hospitals, Boarding Houses, Nurseries, Kindergartens and Schools, Clinics, Social and cultural Institutions, Public Utililies and buildings, except service and storage yards, agricultural gardens, nurseries and green houses, any neighbourhood recreational uses including clubs and other semi- public recreational uses, accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard. Relevant provision is reproduced herein below for the ready reference of this Hon'ble Tribunal:

"7.2.1.1Uses Permitted- Residences, Hospitals, Boarding-Houses, Nurseries, Kindergartens and Schools, Clinics Social and Cultural institutions, Public utilities and buildings, except service and storage yards: agricultur gardens, nurseries and green houses, any neighbourhood recreational uses: including clubs and other semi- public recreational uses; accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard."

Further as per Clause/Regulation 7.1.(i) of Sr. No. 7.1 (General Regulations) mixed land use is not prohibited unless otherwise a particular land use is hazardous. Relevant provision is reproduced herein below for the ready reference of this Hon'ble Tribunal:

"(ii) General land use in the development plan has been contemplated for specified use. However, mixed land use shall not be prohibited unless otherwise a particular land use is hazardous in nature to the pre dominated use and fulfils the regulations fixed for the same."

Therefore, it is humbly submitted that the Respondent herein is not running the hospital in violation of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh.

c. That ab initio in compliance of the provisions of the Biomedical Waste (Management and Handling Rules), 1998 the Respondent herein entered into an Agreement dated 01.04.2014 with Bio Medical Waste Treatment Plant Pvt. Ltd. (BMWT), Village Pangoli for collection of bio-medical waste as per Schedule-1 of the Biomedical Waste (Management and Handling Rules), 1998. It is submitted that the Agreement dated 01.04.2014 was valid for a period of 5 years i.e. upto 01.04.2019. Copy of the Agreement dated 01.04.2014 with Bio Medical Waste Treatment Plant Pvt. Ltd. (BMWT), Village Pangali for collection of bio-medical waste is marked and annexed herewith as Annexure-R/3

d. That It is important to mention herein that as per the Biomedical Waste (Management and Handling Rules), 1998 the Health Care Facilities (HCF's) were required to obtain only authorization under the Biomedical Waste (Management and Handling Rules), 1998 and there was no requirement for obtaining Consent under the Water (Prevention and Control of Pollution) Act, 1974. However, the Ministry of Environment. Forest & Climate Change, Government of India in supersession of Bio-medical Waste (Management & Handling) Rules, 1998 vide notification dated 28.03.2016 revised and issued Bio-Medical Waste Management Rules, 2016. As per Rule 10 of these revised rules the Health Care Facilities (HCFs) were required to obtain Consent under the Water (Prevention and Control of Pollution) Act, 1974 in addition to Authorization from the State Pollution Control Board.

e. Further, as per the Biomedical Waste (Management and Handling Rules). 1998 and the amended Biomedical Waste (Management) Rules. 2016, every operator of a bio-medical facility is required to obtain authorization in accordance to the procedures specified under the Rules. It is submitted that accordingly an application for authorization was submitted by the Respondent Hospital herein and the same was granted on 21.03.2015. It is submitted that the authorization dated 21.03.2015 was valid upto 31.03.2017. Copy of the authorization granted under the Biomedical Waste (Management and Handling Rules). 1998 is marked and annexed herewith as Annexure-R/4.

f. It is submitted that as per Section 14 of the Clinical Establishment Act, 2010 for the provisional registration of the clinical establishment under Section 10 of the Act, an application has to be submitted to the concerned authority along with the prescribed fees. It is submitted that the Respondent herein

accordingly submitted an application and a Certificate of Provisional Registration dated 08.02.2018 was issued by the District Registering Authority, Una, and Government of Himachal Pradesh. It is submitted that the certificate was valid for a period of one year from the date of issue i.e. It was valid till 08.02.2019. Copy of the Certificate of Provisional Registration dated 08.02.2018 issued by the District Registering Authority, Una, Government of Himachal Pradesh is marked and annexed herewith as Annexure-R/5.

g. That since the Ministry of Environment, Forest & Climate Change, Government of India in suppression of Bio-medical Waste (Management & Handling) Rules, 1998 vide notification dated 28.03.2016 revised and issued Bio-Medical Waste Management Rules, 2016 and as per Rule 10 of these revised rules the Health Care Facilities (HCFs) were required to obtain Consent under the Water (Prevention and Control of Pollution) Act, 1974 in addition to Authorization from the State Pollution Control Board, the Respondent herein submitted an Application for obtaining Consent to Establish and Consent to operate. It is submitted that the application submitted for obtaining the Consent to Establish as well as the Consent to Operate was complete in all respects and the requisite fees was also paid by the Respondent herein. Copy of the Application for Consent to Establish and Consent to Operate is marked and annexed herewith as Annexure-R/6.

h. It is submitted that there was no reply whatsoever by the State Pollution Control Board on the application for Consents submitted by the Respondent herein. That as per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, since there was no reply to the application for Consents, the Respondent herein was deemed to be operating with the consent of the State Board. Thus legally speaking the hospital in question had deemed consent in view of Section 25(7) of the Water (Prevention & Control of Pollution) Act, 1974, That Section 25(7) of the Water (Prevention & Control of Pollution) Act, 1974 is reproduced herein for your ready reference:

"25(7)The consent referred to in sub-section (1) shall unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board."

i. Thereafter, the Respondent herein submitted an application dated 19.08.2018 for renewal of Authorization under Biomedical Waste (Management) Rules, 2016. It is submitted that the application submitted by the Respondent herein for renewal of Authorization under Biomedical Waste (Management) Rules, 2016 was complete in all respects and the requisite fees was also paid by the Respondent herein. Copy of the Application dated 19.08.2018 for renewal of Authorization under Biomedical Waste (Management) Rules, 2016 is marked and annexed herewith as Annexure-R/7.

j. It is submitted that there was no reply whatsoever by the State Pollution Control Board on the application for renewal of authorization submitted by the Respondent herein. That as per Rule 10(3) of the Biomedical Waste (Management) Rules, 2016 since there was no reply to the application for renewal of

authorization, the Respondent herein was deemed to be operating with the authorization of the State Board. Thus legally speaking the hospital in question had deemed authorization in view of Rule 10(3) of the Biomedical Waste (Management) Rules, 2016. That Rule 10(3) of the Biomedical Waste (Management) Rules, 2016 is reproduced herein for your ready reference:

"10(4) Every application for authorisation shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents, failing which it shall be deemed that the authorisation is granted under these rules."

k. It is most relevant and important to bring to the notice of this Hon'ble Tribunal that the present Original Application has been filed by the Applicant Shri. Naveen Kumar out of malafide and to wreak vengeance as a close friend and relative of the Applicant i.e. Mr. TB Singh (Ex Principal Scientific Officer, Himachal Pradesh Pollution Control Board), was gotten arrested red handily accepting a bribe of Rs. 3,70,000/- from the answering Respondent for granting Consents which the answering Respondent Hospital was even otherwise entitled to. The Applicant i.e. Shri. Naveen Kumar is a resident of Meerut (Uttar Pradesh) and Mr. TB Singh also belongs to UP having his house in Dehradun.

l. Despite having applied for Consent to Establish as well as Consent to Operate and Authorization under the Bio Medical Waste (Management) Rules, 2016 by way of an application complete in all respect along with requisite fees in the year 2018, the said Mr. TB Singh who was Principal Scientific Officer and was in charge of Una from the beginning started harassing the Respondent demanding money despite the fact that the hospital was fully compliant. After being fed up the answering Respondent approached the State Vigilance & Anti-Corruption Bureau Himachal Pradesh and with their help a trap was laid and Mr. TB Singh was caught red handed accepting a bribe of Rs.3.70,000/- and was taken into custody.

m. It is submitted that it is under these circumstances that the said Mr. TB Singh has gotten this Original Application filed through his relative Shri. Naveen Kumar just to harass the answering Respondent herein who in accordance with law is running a very small nursing home of 10 beds, wherein occupancy is hardly of 2-3 beds daily. That the Respondent herein has also recently got to know that the then Principal Scientific Officer Mr. TB Singh purposely made sure that no communication in form of notices and letters issued by the Respondent Board, reached the Respondent herein.

n. That as per Rule 13 of the Biomedical Waste (Management) Rules, 2016 every occupier or operator of the bio-medical facility has to submit an annual report to the prescribed authority. That accordingly the Respondent herein sent annual reports each year to the Authority concerned. It is submitted that the Annual report of January 2017 till December 2018 was sent by the Respondent herein in Jan 2018 and the same is marked and annexed herewith as Annexure-R/8

o. That since the earlier agreement with Bio Medical Waste Treatment Plant Pvt. Ltd. (BMWT), Village Pangoli for collection of

bio-medical waste was to expire, the Respondent herein well before hand entered into an Agreement dated 14.02.2018 with Suraksha Bio-Sanitizer for collection of bio-medical waste. It is submitted that the Agreement was valid till 31.03.2019. Copy of the Agreement dated 14.02.2018 is marked and annexed herewith as Annexure-R/ 9.

p. Similarly since the provisional registration under Section 14 of the Clinical Establishment Act, 2010 was to expire on 08.02.2019, the Respondent herein submitted an application of renewal and a Certificate of Provisional Registration dated 01.04.2019 was issued by the District Registering Authority, Una, Government of Himachal Pradesh. It is submitted that the certificate was valid for a period of one year from the date of issue i.e. it was valid till 01.04.2020. Copy of the Certificate of Provisional Registration dated 01.04.2019 issued by the District Registering Authority, Una, Government of Himachal Pradesh is marked and annexed herewith as Annexure-R/ 10.

q. It is in the humble submission of the answering Respondent herein that in all this duration, there was no reply by the State Pollution Control Board accepting or rejecting or pointing out deficiencies in the application for Consents under Water (Prevention and Control of Pollution) Act, 1974 as well as in application for renewal of authorization under Bio Medical Waste (Management) Rules, 2016 submitted by the Appellant herein. Thus, the Respondent herein was legally operating with deemed Consents as per Section 25(7) of the Water (Prevention & Control of Pollution) Act, 1974 and deemed Authorization as per Rule 10(3) of the Biomedical Waste (Management) Rules, 2016.

r. That it is pertinent to mention herein that in the month of September 2019, the Respondent herein at the recommendation of the Mr. TB Singh who was at that time Principle Scientific Officer with the Respondent Board, installed a Sewage Treatment Plant of capacity 3 KLD in the premises. Copy of photograph of the Sewage Treatment Plant as well as the bill for purchase/installation of the Sewage Treatment Plant issued by Apex Enviro is marked and annexed herewith as Annexure-R/ 11(Colly).

s. That the Agreement for collection of Bio-Medical Waste with Suraksha Bio-Sanitizer was further renewed from time to time i.e. on 01.04.2019, 01.04.2020 and 01.04.2021 and the same was valid till 31.03.2022. Copy of the Agreements with Suraksha Bio-Sanitizer dated 01.04.2019, 01.04.2020 and 01.04.2021 are marked and annexed herewith as Annexure-R/ 12(Colly).

t. It is in the humble submission of the answering Respondent herein that not only did Mr. TB Singh (Ex Principle Scientific Officer with the Respondent Board) advise to install Sewage Treatment Plant but also asked the Respondent herein to apply again for the Consents under the Water (Prevention and Control of Pollution) Act, 1974 online as there was no reply by Respondent Board on the previous Application submitted by the Respondent Board in 2018. That blindly following the advise of Mr. TB Singh, the Respondent herein re-submitted an application online for grant of Consents under the Water (Prevention and Control of Pollution) Act, 1974. It is submitted that along with the application made online. Mr. TB Singh also asked the

Respondent herein to re-pay the fees from 2018 onwards. It is submitted that the Respondent herein paid an amount of Rs. 5000/-towards consent fees and the receipt issued by the Respondent Pollution Control Board is marked and annexed herewith as Annexure-R/ 13.

u. It is pertinent to mention herein that even after re-applying for the consents under the Water (Prevention and Control of Pollution) Act, 1974 online, there was no reply whatsoever from the Respondent Pollution Control Board. It is submitted that on enquiring about the same from Mr. TB Singh (Ex Principle Scientific Officer with the Respondent Board), Mr. TB Singh demanded money in form of bribe from the Respondent herein for grant of Consents and also questioned the Respondent herein as to why the Sewage Treatment Plant was not installed from a favourite vendor of Mr. TB Singh and was rather bought and installed from some other place. That in light of the same the Respondent herein made a police complaint against Mr. TB Singh for demanding bribe for the release of Consent Certificates and an FIR being FIR No.04/2022 under Section 7 of Prevention of Corruption Act, 1988 was also registered against the then Chief Scientific Officer Mr. TB Singh by the State Vigilance & Anti Corruption Bureau Himachal Pradesh and the said Mr. TB Singh was caught red handed accepting Rs. 3,70,000/- and was arrested. It is submitted that the matter is still under investigation by the State Vigilance & Anti Corruption Bureau Himachal Pradesh. Copy of the FIR has been annexed above as Annexure-R/ 1.

v. That since the earlier agreement with Bio Medical Waste Treatment Plant Pvt. Ltd. (BMWT), Village Pangoli for collection of bio-medical waste was to expire, the Respondent herein well before hand entered into an Agreement dated 01.04.2022 with Enviro Engineers, CBWTF Industrial Area Pandoga, Una. Himachal Pradesh for collection of bio-medical waste. It is submitted that the Agreement is valid till 31.03.2023. Copy of the Agreement dated. 01.04.2022 is marked and annexed herewith as Annexure-R/ 14.

w. It is submitted that after regular follow-ups, the Respondent Board finally granted Consent to Establish dated 26.05.2022 to the Respondent Hospital, It is submitted that the Consent to Establish is valid upto 25.05.2023. Copy of the Consent to Establish dated 26.05.2022 is marked and annexed herewith at Annexure-R/ 15.

x. That since the provisional registration under Section 14 of the Clinical Establishment Act, 2010 was to expire, the Respondent herein submitted an application of renewal and a Certificate of Provisional Registration dated 05.09.2022 was issued by the District Registering Authority, Una, Government of Himachal Pradesh. It is submitted that the certificate was valid for a period of one year from the date of issue i.e. it is valid till 05.09.2023. Copy of the Certificate of Provisional Registration dated 05.09.2022 issued by the District Registering Authority, Una, Government of Himachal Pradesh is marked and annexed herewith as Annexure-R/ 16.

y. It is submitted that the Consent to Operate under Water (Prevention and Control of Pollution) Act, 1974 pursuant to the

second application submitted in 2021 was eventually granted to the Respondent Hospital on 16.08.2022 and is valid till 31.03.2027. Copy of the Consent to Operate dated 16.08.2022 is marked and annexed herewith as Annexure-R/ 17. Also, the Respondent Board has granted the renewed Authorization dated 12.12.2022 under the Bio Medical Waste (Management) Rules, 2016 to the Respondent Hospital and the same is valid till 31.03.2027. Copy of the renewed Authorization dated 12.12.2022 under the Bio Medical Waste (Management) Rules, 2016-is marked and annexed herewith as Annexure-R/ 18.

z. It is also pertinent to mention herein that the Respondent Hospital was inspected by the officers of the Board and samples from the sewage treatment plant of the Hospital were collected on 19.11.2022. It is submitted that as per the report of the Respondent Board dated 14.12.2022, the parameters of the samples collected from the sewage treatment plant of the Hospital were found to be well within the prescribed standard limits. Copy of the Report dated 14.12.2022 by the Respondent Board is marked and annexed herewith as Annexure-R/ 19.

aa. In recent post, a small portion was added in the premises and as an abundant precaution, though not required, the Respondent herein applied to the Department of Town and Country Planning, Una for change of building use (hospital site) and composition of additional construction of garage situated on the right side of the hospital. It is submitted that the Special Area Development Authority, Una granted completion permission vide letter dated 19.01.2023 and the same is marked and annexed herewith as Annexure-R/ 20.

bb. It is therefore humbly submitted that as on date, the Respondent Hospital has Consent to Establish as well as Consent to Operate and also Authorization under the Bio Medical Waste (Management) Rules, 2016 and is running the hospital in full compliance as per the prescribed norms. It is submitted that the delay in grant of the Consents as well as the Authorization was a result of lapse on part of the officers of the Respondent Board and hence the Respondent Hospital cannot be held accountable for the same.

cc. It is in the humble submission of the answering Respondent herein that there is an adequate appropriate Sewage Treatment Plant which is being run efficiently of capacity 3 KLD installed in the premises and the sample result of the same have found to be well within the prescribed limits as per the report dated 14.12.2022 of the Respondent Board. Further the allegation of the Applicant that the Respondent Hospital is discharging all its Bio Medical Waste outside the hospital is erroneous and without any evidence on record. It is submitted that starting from the year 2014 fill date, the Respondent Hospital has entered into Agreements with Bio Medical Waste Collection facilities for collection of Bio Medical Waste from the hospital and the same have been placed on record for the convenience of this Hon'ble Tribunal. It is pertinent to mention herein that the Applicant has not placed on record any evidence or any photo to establish or

support his allegation that the Respondent Hospital is discharging all its Bio Medical Waste outside the hospital. It is therefore submitted that the allegations of the Applicant are only based out of personal rivalry and hence ought to be dismissed. dd. It is submitted that there arises no question of permanent damage or even say damage in the present case as the Respondent Hospital in its day to day operation is neither discharging any untreated effluent nor is disposing off its Bio Medical Waste outside the premises of the Hospital, It is hence submitted that there has been no environmental damage caused by the Respondent Hospital as well as that there is no evidence whatsoever to the effect that sewage/effluent as well as Bio Medical Waste is being discharged in open or otherwise.”

10. Respondent no.8 has reiterated these facts in reply on merits and reply to grounds which are not reproduced. Respondent no.8 has pleaded the original application to be time barred as the Hospital is being run in the said location since the year 2013-2014 and prayed that the original application may be dismissed.

Additional affidavit dated 29.09.2023 filed by the applicant

11. Additional affidavit dated 29.09.2023 was filed by the applicant vide email dated 30.09.2023 pointing out the violations by respondent no. 8.

The relevant part of the additional affidavit reads as under:-

“X X X X

a. That in the year 2004, Notice dated 21/06/2004 was issued to Respondent No. 08 by Member Secretary, Himachal Pradesh State Environment Protection and Pollution Control Board.

It is important to mention here that as per the said Notice, Respondent No. 08 was directed to deposit the fees with respect to AUTHORIZATION UNDER BIO MEDICAL WASTE (MANAGEMNT & HANDLING) RULES, 1998.

True copy of the Notice dated 21/06/2004 issued by Himachal Pradesh Environment Protection and Pollution Control Board is annexed hereto and marked as Annexure A1/2.

b. That again in the year 2005, a notice dated 02/08/2005 was issued by Himachal Pradesh Environment Protection and Pollution Control Board wherein Respondent No. 08 was again directed to deposit the AUTHORIZATION FEES under the BMW Rules.

True copy of the Notice dated 02/08/2005 issued by Himachal Pradesh Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/3.

c. That vide its letter Authorization letter dated 06/11/2006, the Himachal Pradesh State Environment Protection and Pollution Control Board issued Authorization for operating a facility for generation, collection, Storage, Treatment /Disposal and/or handling of Bio Medical Waste to Respondent No. 08.

It is important to mention here that the said Authorization was valid till 31/03/2008 for 5 bed only.

True copy of the Authorization letter dated 06/11/2006 issued by Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/4.

d. That again vide Authorization letter dated 30/12/2008, the Himachal Pradesh State Environment Protection and Pollution Control Board issued Authorization for operating a facility for generation, collection, Storage, Treatment /Disposal and/or handling of Bio Medical Waste to Respondent No. 08.

True copy of the Authorization letter dated 30/12/2008 issued by Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/5.

e. That on dated 23/07/2011, the Himachal Pradesh State Environment Protection and Pollution Control Board issued letter dated 23/07/2011 to respondent No. 08 wherein it is categorically mentioned that during inspection of Hospital of Respondent No. 08 it was found that Bio Medical Waste generated in the Laboratory was not chemically treated before disposal.

Ture copy of the letter dated 23/07/2011 issued by Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/6.

f. That, for the purpose of getting authorization under Bio Medical Waste Rules, Respondent No. 08 submitted FORM I before the prescribed authority of Himachal Pradesh State Environment Protection and Pollution Control Board.

It is respectfully submitted that as per the said FORM applicant has learnt that Respondent No. 08 expanded the number of beds from 05 to 10.

True copy of the FORM - I submitted by Respondent No. 08 before the Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/7.

g. That vide Authorization letter dated 31/12/2011, the Himachal Pradesh State Environment Protection and Pollution Control Board issued Authorization for operating a facility for

generation, collection, Storage, Treatment / Disposal and / or handling of Bio Medical Waste to Respondent No. 08.

True copy of the Authorization letter dated 31/12/2011 issued by Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/8.

h. That Himachal Pradesh State Environment Protection and Pollution Control Board vide in the year 2012 again issued a letter to Respondent No. 08 wherein it is clearly mentioned that Respondent No. 08 has failed to segregate Bio Medical Waste as per Bio Medical Waste Rules.

True copy of the letter issued by the Himachal Pradesh State Environment Protection and Pollution Control Board to Respondent No. 08 is annexed and marked hereto as Annexure A1/9.

i. That Himachal Pradesh State Environment Protection and Pollution Control Board again issued a letter dated 15/10/2013 to Respondent No. 08 wherein it was again stated that Respondent No. 08 has failed to comply with the provisions of Bio Medical Waste (Management and Handling) Rules.

True copy of the letter dated 15/10/2013 issued by the Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/10.

j. That vide its letter dated 16/07/2014 issued by Himachal Pradesh State Environment Protection and Pollution Control Board again stated that Respondent No. 08 has failed to comply with the provisions of Bio Medical Waste (Management and Handling) Rules.

True copy of the letter dated 16/07/2014 issued by the Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/11.

k. That vide Authorization letter dated 21/03/2015, the Himachal Pradesh State Environment Protection and Pollution Control Board issued Authorization for operating a facility for generation, collection, Storage, Treatment / Disposal and/or handling of Bio Medical Waste to Respondent No. 08.

True copy of the Authorization letter dated 21/03/2015 issued by Himachal Pradesh State Environment Protection and Pollution Control Board is annexed and marked hereto as Annexure A1/12.

1. That vide its Letter dated 27/07/2017 the Himachal Pradesh State Environment Protection and Pollution Control Board again directed Respondent No 08 to comply with the Bio Medical Waste Rules, 2016. It is pertinent to mention here that by way of letter dated 27/07/2017, the Board also mentioned that Respondent No. 08 is not legally bound to have NOC under AIR ACT as well as WATER ACT.

m. That as per the affidavit filed by Respondent No. 08, on dated 16/08/2022, applicant has learnt that Himachal Pradesh State

Pollution Control Board issued Consent to Operate in favour of Respondent No. 08.

n. Similarly, as per the affidavit filed by Respondent No. 08, applicant has learnt that on dated 16/08/2022 the Himachal Pradesh State Pollution Control Board issued Authorization under Bio Medical Waste Rules 2016 in favour of Respondent No. 08.

o. That is it also pertinent to mention here that District Magistrate Una in his Counter Affidavit has clearly mentioned that (para 3 (j)) that Respondent No. 08 is running its hospital on a TWO STOREY RESIDENTIAL BUILDING which UNA DEVELOPMENT AUTHORITY has approved for RESIDENTIAL PURPOSE only.”

12. Written submissions were filed by the applicant vide email dated 03.10.2023 (pages no. 312 to 321 of the paper book). Arguments were heard and Judgment was reserved vide order dated 03.10.2023 while observing that written submissions may be filed by the respondents, if so desired, within three days.

13. However, written arguments were not filed by the respondents within the specified period.

14. While going through the material on record, it was found that some material aspects of the case have not been adverted to or referred to at the time of arguments and the matter required further hearing for due elucidation/consideration of the same. Accordingly, vide order dated 11.01.2024 the matter was relisted for hearing.

Reply dated 13.03.2024 filed by respondent no. 8

15. Reply dated 13.03.2024 to additional affidavit dated 29.09.2023 filed by the applicant was filed by respondent no. 8 vide email dated 13.03.2024.

The relevant part of the reply is reproduced as under:-

“REPLY ON BEHALF OF RESPONDENT NO.8 1.E. SHIVALIK HOSPITAL TO THE ADDITIONAL AFFIDAVIT FILED BY THE APPLICANT.

X

X

X

X

a. That in response to the contents of the corresponding paragraph it is submitted that the Respondent No.8 herein was earlier running a 5 bedded hospital at a different location other than the location of the hospital which is the subject matter of this Original Application. It is necessary to mention herein that the notice dated 21.06.2004 as mentioned by the Applicant was issued by the concerned Authority for the earlier 5 bedded hospital situated near Old Bus Stand, Una. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

b. That in response to the contents of the corresponding paragraph it is submitted that the Respondent No.8 herein was earlier running a 5 bedded hospital at a different location other than the location of the hospital which is the subject matter of this Original Application. It is necessary to mention herein that the notice dated 21.06.2004 a mentioned by the Applicant was issued by the concerned Authority for the earlier 5 bedded hospital situated near Old Bus Stand, Una. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

C. That the contents of the corresponding paragraph are true to the extent that are admitted herein. It is reiterated that the Respondent No.8 herein was earlier running a 5 bedded hospital near Old Bus Stand, Una. The Authorization Letter dated 06.11.2006 as stated by the Applicant, throws a light on the fact that even prior to 2013 (ie, before shifting the hospital to location of the hospital which is the subject matter of this Original Application) the Respondent No.8 herein was running the 5 bedded hospital situated near Old Bus Stand, Una only after obtaining due Authorization under the Biomedical Waste (Management and Handling Rules), 1998. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

d. That in response to the contents of the corresponding paragraph it is submitted that the Authorization dated 06.11.2006 issued by the concerned Authority for running the 5 bedded hospital near Old Bus 1.

Stand, Una was further renewed by the Competent Authority on 30.12.2008 and was valid upto 31.03.2011. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

e. That in response to the contents of the corresponding paragraph it is submitted that from year 2011 upto 2013, in the two storied building near Police Line, Jhalera, Una (that is the subject matter of the present Application) only a small makeshift laboratory/consultancy was set up by the Respondent No.08 initially whereas the rest of the premises was being solely used only for residential purpose. Hence, there was no bio medical waste generated and after the issuance of the notice dated 23.07.2011, the Respondent No.08 herein categorically informed the Respondent Board that there is no Biomedical waste being generated as the Hospital was yet to be set up and there was no operation all together. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

f. That in response to the contents of the corresponding paragraph it is submitted that the Respondent No.8 in the year 2011. decided to shift the hospital location from Old Bus Stand, Una to near Police Line, Jhalera. Una. It is necessary to mention herein that in the two storied building near Police Line, Jhalera. Una (That is the subject matter of the only 0 small makeshift present Application) laboratory/consultancy was set up by the Respondent No.08 initially whereas the rest of the premises was being solely used only for residential purpose upto the year 2013. Further, to initiate the process of setting up the 10 bedded hospital in the said premises, the Respondent No.8 submitted FORM-1 before the concerned authority for obtaining authorization under the Biomedical Waste (Management and Handling Rules). 1998. It is submitted that the Respondent No.8 wanted to have all the permissions before setting up the said 10 bedded hospital which indicates the intention of the Respondent No.8 to run the hospital as per law. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity,

g. That in response to the contents of the corresponding paragraph it is submitted that pursuant to the submission of FORM-1 by the Respondent No.8. the concerned Authority granted Authorization dated 31.12.2011 to the Respondent No.8 herein under the Biomedical Waste Management and Handling Rules), 1998. It is reiterated that though the permission was obtained on 31.12.2011, yet the Respondent No.8 started the 10 bedded hospital only in the year 2013 after obtaining no objection certificate dated 07.06.2013 from the Office of the Gram Panchayat, District Una, Himachal Pradesh. It is submitted that though the permission was taken for a 10 bedded hospital, yet occupancy is hardly of 2-3 beds daily. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

h. That in response to the contents of the corresponding paragraph it is reiterated that from year 2011 upto 2013, in the two storeyed building near Police Line, Jhalera, Una (that is the subject matter of the present Application) only a small makeshift laboratory/consultancy was set up by the Respondent No.08 initially whereas the rest of the premises was being solely used only for residential purpose. Hence, there was no bio medical waste generated and after the issuance of the notice in the L year 2012, the Respondent No.08 herein categorically re-informed the Respondent Board that there is no Biomedical waste being generated as the Hospital was in the process of being set up and there was no operation all together. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

i. That in response to the contents of the corresponding paragraph it is submitted that no such notice was ever received by the Respondent No.08 herein. It is pertinent to mention herein that the Respondent Hospital has Consent to Establish as well as Consent to Operate and also Authorization under the Bio Medical Waste (Management) Rules, 2016 and is running the hospital in full compliance as per the prescribed norms. It is submitted that starting from the year 2014 till date, the Respondent Hospital has entered into Agreements with Bio

Medical Waste Collection facilities for collection of Bio Medical Waste from the hospital and the same have been placed on record for the convenience of this Hon'ble Tribunal. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

j. That in response to the contents of the corresponding paragraph it is submitted that no such notice was ever received by the Respondent No.08 herein. It is pertinent to mention herein that the Respondent Hospital has Consent to Establish as well as Consent to Operate and also Authorization under the Bio Medical Waste (Management) Rules, 2016 and is running the hospital in full compliance as per the prescribed norms. It is submitted that starting from the year 2014 till date, the Respondent Hospital has entered into Agreements with Bio Medical Waste Collection facilities for collection of Bio Medical Waste from the hospital and the same have been placed on record for the convenience of this Hon'ble Tribunal. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

k. That in response to the contents of the corresponding paragraph it is submitted that upto the year 2013, the said premises ie, two storeyed building was being solely used only for residential purpose. It is submitted that for the purpose of setting up a 10-bed hospital a No objection was sought from the Office of Gram Panchayat, District Una, Himachal Pradesh and the same was granted to the Respondent herein on 07.06.2013. It is submitted that thereafter an application for renewal of authorization under the Biomedical Waste (Management and Handling Rules), 1998 was submitted by the Respondent Hospital herein and the same was granted on 21.03.2015. It is submitted that the authorization dated 21.03.2015 was valid upto 31.03.2017. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

l. That in response to the contents of the corresponding paragraph it is submitted that the Respondent No.8 herein did not receive any letter dated 27.07.2017 from the Board. That the Respondent herein also got to know that the then Principal Scientific Officer Mr. TB Singh purposely made sure that no communication in form of notices and letters issued by the Respondent Board, reached the Respondent herein. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

m. That in response to the contents of the corresponding paragraph it is submitted that as per the Biomedical Waste Management and Handling Rules, 1998 the Health Care Facilities (HCF's) were required to obtain only authorization under the Biomedical Waste (Management and Handling Rules), 1998 and there was no requirement for obtaining Consent under the Water (Prevention and Control of Pollution) Act, 1974. However, the Ministry of Environment, Forest & Climate Change, Government of India in supersession of Bio-medical Waste Management & Handling) Rules. 1998 vide notification dated 28.03.2016 revised and issued Bio-Medical Waste Management Rules, 2016. As per Rule 10 of these revised rules the Health Care Facilities (HCFs) were required to obtain Consent under the Water (Prevention and Control of Pollution) Act, 1974 in addition

to Authorization from the State Pollution Control Board. That since the Ministry of Environment, Forest & Climate Change, Government of India in suppression of Bio-medical Waste (Management & Handling) Rules, 1998 vide notification dated 28.03.2016 revised and issued Bio-Medical Waste Management Rules, 2016 and as per Rule 10 of these revised rules the Health Care Facilities (HCFs) were required to obtain Consent under the Water (Prevention and Control of Pollution) Act, 1974 in addition to Authorization from the State Pollution Control Board, the Respondent herein submitted an Application for obtaining Consent to Establish and Consent to operate. It is submitted that the application submitted for obtaining the Consent to Establish as well as the Consent to Operate was complete in all respects and the requisite fees was also paid by the Respondent herein. It is submitted that there was no reply whatsoever by the State Pollution Control Board on the application for Consents submitted by the Respondent herein. That as per the provisions of the Water (Prevention and Control of Pollution) Act, 1974, since there was no reply to the application for Consent, the Respondent herein was deemed to be operating with the consent of the State Board. Thus, legally speaking the hospital in question had deemed consent in view of Section 25(7) of the Water Prevention & Control of Pollution) Act, 1974. That Section 25(7) of the Water Prevention & Control of Pollution Act, 1974 is reproduced herein for your ready reference:

"25(7) The consent referred to in sub-section (1) shall unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board."

Despite having applied for Consent to Establish as well as Consent to Operate and Authorization under the Bio Medical Waste (Management) Rules, 2016 by way of an application complete in all respect along with requisite fees in the year 2018, there was no reply by the State Pollution Control Board accepting or rejecting or pointing out deficiencies in the application for Consents under Water (Prevention and Control of Pollution) Act, 1974 submitted by the Appellant herein. Thus, the Respondent herein was legally operating with deemed Consents as per Section 25/ 7) of the Water (Prevention & Control of Pollution) Act, 1974. That it is pertinent to mention herein that in the month of September 2019, the Respondent herein at the recommendation of the Mr, TB Singh who was at that time Principle Scientific Officer with the Respondent Board, installed a Sewage Treatment Plant of capacity 3 KLD in the premises. It is in the humble submission of the answering Respondent herein that not only did Mr. 18 Singh (Ex Principle Scientific Officer with the Respondent Board) advise to install Sewage Treatment Plant but also asked the Respondent herein to apply again for the Consents under the Water (Prevention and Control of Pollution) Act, 1974 online as there was no reply by Respondent Board on the previous Application submitted by the Respondent Board in 2018. That blindly following the advice of Mr. TB Singh, the Respondent herein re-submitted an application online for grant of Consents under the Water (Prevention and Control of Pollution) Act, 1974. It is submitted that along with the application made

online, Mr. TB Singh also asked the Respondent herein to re-pay the fees from 2018 onwards. It is submitted that the Respondent herein paid an amount of Rs. 5000/- towards consent fees. It is pertinent to mention herein that even after re-applying for the consents under the Water (Prevention and Control of Pollution) Act, 1974 online, there was no reply whatsoever from the Respondent Pollution Control Board. It is submitted that on enquiring about the same from Mr. TB Singh (Ex Principle Scientific Officer with the Respondent Board), Mr. TB Singh demanded money in form of bribe from the Respondent herein for grant of Consents and also questioned the Respondent herein as to why the Sewage Treatment Plant was not installed from a favorite vendor of Mr. TB Singh and was rather bought and installed from some other place. That in light of the same the Respondent herein made a police complaint against Mr. TB Singh for demanding bribe for the release of Consent Certificates and an FIR being FIR No.04/2022 under Section 7 of Prevention of Corruption Act, 1988 was also registered against the then Chief Scientific Officer Mr. TB Singh by the State Vigilance & Anti-Corruption Bureau Himachal Pradesh and the said Mr. TB Singh was caught red handed accepting Rs. 3.70,000/- and was arrested. It is submitted that the matter is still under investigation by the State Vigilance & Anti-Corruption Bureau Himachal Pradesh. It is submitted that the Consent to Operate under Water (Prevention and Control of Pollution) Act, 1974 pursuant to the second application submitted in 2021 was eventually granted to the Respondent Hospital on 16.08.2022 and is valid till 31.03.2027. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

n. That in response to the contents of the corresponding paragraph it is submitted that the Respondent herein submitted an application dated 19.08.2018 for renewal of Authorization under Biomedical Waste (Management) Rules, 2016. It is submitted that the application submitted by the Respondent herein for renewal of Authorization under Biomedical Waste (Management) Rules, 2016 was complete in all respects and the requisite fees was also paid by the Respondent herein. It is submitted that there was no reply whatsoever by the State Pollution Control Board on the application for renewal of authorization submitted by the Respondent herein. That as per Rule 10(3) of the Biomedical Waste (Management) Rules, 2016 since there was no reply to the application for renewal of authorization, the Respondent herein was deemed to be operating with the authorization of the State Board. Thus, legally speaking the hospital in question had deemed authorization in view of Rule 10(3) of the Biomedical Waste (Management) Rules, 2016. That Rule 10(3) of the Biomedical Waste (Management) Rules, 2016 is reproduced herein for your ready reference:

"10(3) Every application for authorization shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents, failing which it shall be deemed that the authorization is granted under these rules."

That the Respondent Board finally granted the renewed Authorization dated 12.12.2022 under the Bio Medical Waste

(Management) Rules, 2016 to the Respondent Hospital and the same is valid till 31.03.2027. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity.

o. That the contents of the corresponding paragraph are true. That in respect of the provisions of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh, as per Clause/regulation 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) the uses permitted in the area earmarked for Residential Use are Residences. Hospitals, Boarding Houses, Nurseries, Kindergartens and Schools. Clinics. Social and cultural Institutions, Public Utlflies and buildings. except service and storage yards, agricultural gardens, nurseries and green houses, any neighborhood recreational uses including clubs and other semi public recreational uses, accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard. Relevant provision is reproduced herein below for the ready reference of this Hon'ble Tribunal

7.2.1.1 Uses Permitted- Residences, Hospitals Boarding-Houses, Nurseries Kindergartens and Schools Clinics Social and Cultural institutions. Public utilities and buildings, except service and storage yards: agriculture gardens, nurseries and green houses, any neighborhood recreational uses including clubs and other semi- public recreational uses accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard."

Further as per Clouse/Regulation 7.1.(i) of Sr. No. 7.1 (General Regulations) mixed land use is not prohibited unless otherwise a particular land use is hazardous. Relevant provision is reproduced herein below for the ready reference of this Hon'ble Tribunal

"() General land use in the development plan has been contemplated for specified use. However, mixed land use shall not be prohibited unless otherwise a particular land use is hazardous in nature to the predominated use and fulfils the regulations fixed for the same."

Therefore, it is humbly submitted that the Respondent herein is not running the hospital in violation of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh, In recent past, a small portion was added in the premises and as an abundant precaution, though not required, the Respondent herein applied to the Department of Town and Country Planning. Una for change of buliding use (hospital site) and composition of additional construction of garage situated on the right side of the hospital. It is submitted that the Special Area Development Authority, Una granted completion permission vide letter dated 19.01.2023. The contents of the preliminary submissions are reiterated and not repeated herein for the sake of brevity."

16. I.A. No. 237/2024 was filed by the applicant with the prayer for passing appropriate order for placing the matter before other bench which was disposed of vide order dated 20.09.2024.

17. I.A. No. 455/2024 was filed for clarification of order dated 20.09.2024 which was disposed of vide order dated 18.07.2025 as having become infructuous.

18. This Tribunal observed in its order dated 23.10.2024 that in his reply respondent no. 7 had mentioned in Para-3(k) about the issuance of notice no. SADA (Una)-Case No. BP-630/2007-333 dated 01.12.2022 to respondent no.8 and directed respondents no. 6 and 7 to file additional reply giving information regarding further proceedings/action taken on the above said notice.

Additional reply filed by respondents no. 6 and 7

19. In compliance thereof additional reply was filed by respondents no. 6 and 7 on 18.11.2024 through e-filing. In the reply it has been submitted that in compliance of the above said order, the District Magistrate, Una directed the Assistant Town Planner, Sub-Divisional Town Planning Office Una vide letter No. 1542-43/ADC/LFA dated 11.11.2024 to supply information regarding further proceeding/action taken about issuance of notice no. SADA(Una)-Case No. BP-630/2007-333 dated 01.12.2022 to respondent no.8. In reply thereto the Member Secretary, Special Area Development (H.P.), Authority, Una-cum-ATP Una District Una has, vide his office letter No. SADA (Una)-Case No. BP-630/2007-201 dated 12.11.2024, reported that the maps for construction of two storey residential building at khasra no. 1546/14, 1546/15, 1546/16, 1546/21, 1546/22 & 1546/23 situated in Mohal Jhalera, Tehsil & District Una (H.P.) were approved in favour of Shri Krishan Dass, Shri Akshay Kumar S/o Sh. Krishan Das and Smt. Anupama vide letter No. SADA (Una)-Case No. BP-630/2007-659 dated 22.11.2007; that letter No. SADA (Una)-Case No. BP-

630/2007-333 dated 01.12.2022 was issued to Shri Krishan Dass, Shri Akshay Kumar S/o Sh. Krishan Das and Smt. Anupama w/o Sh. Akshay Kumar c/o Shivalik Hospital Jhalera, Tehsil and District Una (H.P.) for operating "Hospital" in the building constructed at 1546/14, 1546/15, 1546/16, 1546/21, 1546/22 and 1546/23 situated in Mohal Jhalera requiring the said land owners to obtain the permission for change of building use and that as per provisions of clause 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) of Chapter Seven of the Development Plan of Una Planning Area the permission for change of building use was granted to said land owners vide reference No. 04202300032 dated 19.01.2023.

20. We have heard arguments addressed by Mr. Gaurav Kumar Bansal, Ms. Nandita Bansal and Ms. Chandrika Upadhyay, Advocates for the Applicant (through VC), Mr. Jasmeet Singh, Advocate for respondent no 1, Ms. Soni Singh, Advocate for respondent no 2 (through VC), Ms. Inderdeep Kaur Raina, Advocate for respondents no. 3, 6 and 7, Mr. Aditya Vijaykumar and Mr. Anirudh Anand, Advocates for respondents no 4 and 5 (through V.C), Mr. A. R. Takkar, Mr. Manan Takkar, Ms. Astha Tyagi and Mr. Yash Dewan, Advocates for respondent no. 8 (through VC) and we have gone through the material on record carefully.

21. In the present case the applicant had filed written submissions on 02.10.2023 and respondent no. 8 filed written arguments on 13.03.2024 and we consider it appropriate and also expedient in the interest of the justice that the relevant part of the same be reproduced.

Written Submissions filed by the Applicant

22. The relevant part of the written submissions filed by the applicant on 02.10.2023 is reproduced as under:-

“ **Written Submissions on behalf of applicant**

By way of the present Original Application, applicant has prayed the followings before this Hon'ble Court:

- *Direct Himachal Pradesh State Pollution Control Board to close the operation of Respondent No. 08*
- *Direct the Department of Town and Country Planning to take action against Respondent No. 08 as the same is operating in Non Conforming Area*
- *Direct the Himachal Pradesh State Pollution Control Board to act impose Environmental Compensation on the basis of Polluter Pays Principle.*

It is respectfully submitted that applicant by way of the present Original Application requests this Honble Court to adjudicate upon the Substantial Questions of Law:

- a. Whether Himachal State Pollution Control Board can allow the operation of Shivalik Hospital without issuance of Authorization as provided under Rule 10 of the Bio Medical Waste Management Rules, 2016?*
- b. Whether Himachal Pradesh State Pollution Control Board can allow the operation of Shivalik Hospital without issuance of Consent to Operate as provided under Water (Prevention and Control of Pollution) Act, 1974?*
- c. Whether the Dept of Town and Country Planning, Himachal Pradesh can allow Shivalik Hospital in Non Confirming Area or in violation of Master Plan issued by Department of Town and Country Planning of State of Himachal Pradesh?*

It is respectfully submitted that after filing of the present Original Application, the Himachal Pradesh State Pollution Control Board (hereinafter referred as HPSPCB) has issued Consent to Establish, Consent to Operate as well as Authorization under Bio Medical Waste Management Rules, 2016. That the same is also clear by way of the affidavit filed by Respondent No. 08 as well as the affidavit filed by Himachal Pradesh State Pollution Control Board.

That in view of the above, applicant wishes to argue the present Original Application on the following two issues:

- i. Regarding imposition of Environmental Compensation against Respondent No. 08 for operating its unit in absence of Consent to Operate and Authorization under Bio Medical Waste Rules 2016*

ii. Regarding Operation of Hospital by Respondent No. 08 in a Two Storey Building the Map of which is approved as a Residential Building by Town and Country Planning, Una

Regarding imposition of Environmental Compensation against Respondent No. 08 for operating its unit in absence of Consent to Operate and Authorization under Bio Medical Waste Rules 2016

It is respectfully submitted that Respondent No. 08 is a habitual offender as far as Green Laws of the Land is Concerned. That applicant wishes to apprise this Hon'ble Court on the following violations which Respondent No. 08 has committed while running its Hospital Unit:

i. As stated in the Additional Affidavit, Himachal Pradesh State Pollution Control Board has issued following Notices to Respondent No. 08 for deposition of Fees with respect to Authorization under Bio Medical Waste (Management & Handling) Rules, 1998:

A. Notice dated 21/06/2004 for deposition of Fees (**Annexure A1/2**)

B. Notice dated 02/08/2005 wherein again HPSPCB again directed Respondent No. 08 to deposit Fees under BMW Rules. (**Annexure A1/3**)

ii. That followings are the instances wherein Respondent No. 08 has operated its Hospital unit in absence of Authorization provided under Bio Medical Waste Rules:

a. Authorization letter dated 06/11/2006 issued under Bio Medical Waste Rules was valid till 31/03/2008. (**Annexure A1/4**).

The next authorization which HPSPCB issued in favor of Respondent No. 08 was on dated 30/12/2008.

It is clear from the above that Respondent No. 08 continued to operate its unit without Authorization under Bio Medical Waste rules from 31/03/2008 to 30/12/2008 i.e. approximately for more than 8 months.

b. Similarly, HPSPCB again issued Authorization under BMW Rules on dated 30/12/2008 and the same was valid for Respondent No. 08 till 31/03/2011. (**Annexure A1/5**) The next authorization which HPSPCB issued in favor of Respondent No. 08 was issued on 31/12/2011.

It is clear from the above that again Respondent No. 08 operated its Hospital unit in absence of Authorization from 31/03/2011 to 31/12/2011 i.e. approximately more than 8 months.

c. That HPSPCB vide its letter dated 31/12/2011 again issued Authorization under BMW Rules in favor of Respondent No. 08 and the same was valid upto 31/03/2014. **(Annexure A1/8)**

The HPSPCB issued the next Authorization only on dated 21/03/2015, which clearly shows that from 31/03/2014 till 21/03/2015 Respondent No. 08 operated its unit in absence of Authorization under BMW Rules i.e approximately for around 01 years Respondent No. 08 operated its unit in violation of Green Laws.

d. Similarly, Authorization letter dated 21/03/2015 which HPSPCB issued in favor of Respondent No. 08 was valid upto 31/03/2017. **(Annexure A1/12)**

HPSPCB has issued the subsequent Authorization under BMW Rules only in the year 2022 i.e on dated 12/12/2022. It is clear from the above that Respondent No. 08 continued operation of its Unit from 31/03/2017 till 12/12/2022 i.e. from more than 5 years.

e. That apart from the above after the issuance of letter dated 27/07/2017 issued by HPSPCB, Respondent No. 08 obtained the Consent to Operate only in the year 2022 i.e. on dated 16/08/2022. It is clear from the above that for more than 05 years, Respondent No. 08 operated its Unit without NOC under Water (Prevention and Control of Pollution) Act, 1974.

Hence, it is crystal clear from the above that Respondent No. 08 at various point to time, has operated its Hospital Unit not only in violation of BMW Rules but also in absence of NOC required under Water (Prevention and Control of Pollution) Act, 1974.

That as per Section 20 of the National Green Tribunal 2010, this Honble Tribunal by way of applying 'POLLUTER PAYS PRINCIPLE" has the jurisdiction to impose Environmental Compensation on Respondent No. 08.

That in view of the fact that Respondent No 08 has operated its Unit in absence of (a) Authorization under BMW Rules as well as (b) Consent to Operate as provided under Water (Prevention and Control of Pollution) Act, 1974, applicant requests this Honble Court to direct Central Pollution Control Board and Himachal Pradesh State Pollution Control Board to impose Environmental Compensation on Respondent No. 08.

Regarding Operation of Hospital by Respondent No. 08 in a Two Storey Building the Map of which is approved as a Residential Building by Town and Country Planning. Una

That applicant by way of the present Original Application has stated that Respondent No. 08 is running its 10 bedded hospital in a residential building hence is operating its unit in a Non Confirming Area and in violation of Master Plan.

That vide its affidavit filed on dated 10/01/2023, the District Magistrate, Una has stated the following:

"That in reply to Para No. 3 (j) of the Original Application it is submitted that as per the report received from the Assistant Town Planning, Sub Division Town Planning Office Una, District Una (H.P) vide his office letter no. SADA (Una) Case No. BP-630/2007-334 dated 05/12/2022 (copy annexed as Annexure R-III), the Development Plan for UNA Planning Area was approved by the Government of Himachal Pradesh vide Notification No. TCP-F (5)-7/96 dated 23/04/97. The development Plan of Una Planning area is valid till March 2023.

*As per Development Plan of Una Planning Area the land falling under Shivalik Hospital situated at Mohal Jhalera has been earmarked for residential use..... **He has further reported that the building maps for the He construction of Two Storeyed Residential Building** at Khasra No. 1546/14, 1546/15. 1546/16. 1546/21, 1546/23 as per jamabandi for the years 2003-04 of Mohal Jhalera Tehsil and District Una (H.P) were approved vide No. SADA (Una) BP-630/2007-659 dated 22/11/20227 in the name of Shri Krishna Dass, Shri Akshay Kumar Son of Shri Krishnan Das and Smt Anupama w/o Sh Akshay Kumar.....*

...The Shivalik Hospital is running in the building for which said maps were approved. The necessary directions under the Provisions of TCP Act, 1977 have been issued to the proprietor of the Hospital vide No. SADA (Una) Case No. BP-630 /2007-333 dated 01/12/2022.

It is crystal clear from the above that Respondent No. 08 is running its unit in a residential building which as per Master Plan is not permitted, hence is operating in a Non Confirming Area.

Applicant wishes to apprise this Honble Court that in Original Application No. 1038/2018 titled as 'In re: News item published in "The Asian Age" authored by Sanjay Kaw titled CPCB to rank Industrial Units on Pollution Levels' (2022 SCC Online NGT 2957) this Honble Court observed as following:

"169. The principle of 'polluters pay' has to be applied to nonconforming/non complying industrial units and appropriate action which includes closer and imposition of environmental compensation has to be taken by the concerned statutory regulators as it is the statutory

responsibility and obligation conferred upon them by legislature. Statutory regulators can't wriggle out of this obligation under any pretext or explanation they cannot compromise with the environment at the best of polluting industries."

Thus in view of the above mentioned circumstances, the present petition be allowed in terms of the prayer made in the petition."

Written Arguments on Behalf of the respondent no. 8-Shivalik Hospital

23. The relevant part of the written arguments filed by the respondent no. 8-Shivalik Hospital on 13.03.2024 is reproduced as under:-

"WRITTEN ARGUMENTS ON BEHALF OF THE RESPONDENT NO.8 i.e. SHIVALIK HOSPITAL.

PRELIMINARY ARGUMENTS:

1. The present Original Application has been filed by the Applicant Shri. Naveen Kumar out of malafide and to wreak vengeance as a close friend and relative of the Applicant i.e. Mr. TB Singh (Ex Principal Scientific Officer, Himachal Pradesh Pollution Control Board), was gotten arrested red handedly accepting a bribe of Rs. 3,70,000/- from the answering Respondent for granting Consents which the answering Respondent Hospital was even otherwise entitled to. The Applicant i.e. Shri. Naveen Kumar is a resident of Meerut (Uttar Pradesh) and Mr. TB Singh also belongs to UP having his house in Dehradun.

*2. Despite having applied for Consent to Establish as well as Consent to Operate by way of an application complete in all respect along with requisite fees in the year 2018, the said Mr. TB Singh who was Principal Scientific Officer and was in charge of Una from the beginning started harassing the Respondent demanding money despite the fact that the hospital was fully compliant. After being fed up the answering Respondent approached the State Vigilance & Anti-Corruption Bureau Himachal Pradesh and with their help a trap was laid and Mr. TB Singh was caught red handed accepting a bribe of Rs.3.70,000/- and was taken into custody **(Copy of the FIR 04/2022 against Mr. TB Singh @ Annexure-R/1 @ Page 34-36 of the Reply filed by Respondent No.8).***

*3. It is submitted that it is under these circumstances that the said Mr. TB Singh has gotten this Original Application filed through his relative Shri. Naveen Kumar just to harass the answering **Respondent herein who in accordance with law is running a very small nursing home of 10 beds, wherein***

occupancy is hardly of 2-3 beds daily. That the Respondent herein has also recently got to know that the then Principal Scientific Officer Mr. TB Singh purposely made sure that no communication in form of notices and letters issued by the Respondent Board, reached the Respondent herein.

4. It is therefore humbly submitted that as on date, the Respondent Hospital has Consent to Establish as well as Consent to Operate and also Authorization under the Bio Medical Waste (Management) Rules, 2016 and is running the hospital in full compliance as per the prescribed norms. It is submitted that the delay in grant of the Consents as well as the Authorization was a result of lapse on part of the officers of the Respondent Board and hence the Respondent Hospital cannot be held accountable for the same.

5. it is in the humble submission of the answering Respondent herein that there is an adequate appropriate Sewage Treatment Plant which is being run efficiently of capacity 3 KLD installed in the premises and the sample result of the same have found to be well within the prescribed limits as per the report dated 14.12.2022 of the Respondent Board. Further the allegation of the Applicant that the Respondent Hospital is discharging all its Bio Medical Waste outside the hospital is erroneous and without any evidence on record.

It is submitted that starting from the year 2014 date, the Respondent Hospital has entered into Agreements with Bio Medical Waste Collection facilities for collection of Bio Medical Waste from the hospital and the same have been placed on record for the convenience of this Hon'ble Tribunal. It is pertinent to mention herein that the Applicant has not placed on record any evidence or any photo to establish or support his allegation that the Respondent Hospital is discharging all its Bio Medical Waste outside the hospital. It is therefore submitted that the allegations of the Applicant are only based out of personal rivalry and hence ought to be dismissed.

6. It is submitted that there arises no question of permanent damage or even say damage in the present case as the Respondent Hospital in its day-to-day operation is neither discharging any untreated effluent nor is disposing off its Bio Medical Waste outside the premises of the Hospital. It is hence submitted that there has been no environmental damage caused by the Respondent Hospital as well as that there is no evidence whatsoever to the effect that sewage/effluent as well as Bio Medical Waste is being discharged in open or otherwise.

ARGUMENTS AND DEFENCE TO THE CONTENTIONS RAISED BY THE APPLICANT

Argument 1 of the Applicant: Regarding imposition of Environment Compensation against Respondent No.8 for

operating its unit in absence of Consent to Operate and Authorization under Bio Medical Waste Rules, 2016.

Our Defense:

1. The Allegation of the Applicant regarding Respondent No.08 being a habitual offender is false and hence denied. It is submitted that the Applicant is trying to mislead the court by stating false and fabricated facts. The notices as mentioned by the Applicant issued by the Board for deposition of fees, are with regards to the 5 bed Hospital run by the Respondent No.08 at a different location other than the location which is the subject matter of the present Application. It is necessary to mention herein that the notice dated 21.06.2004 and 02.08.2005 as mentioned by the Applicant was issued by the concerned Authority for the earlier 5 bedded hospital situated near Old Bus Stand, Una. It is submitted that all the contentions raised and documents relied upon by the Applicant from 2004 till 2011 are with respect to the 5 bedded hospital run by the Respondent No.08 at a completely different location altogether.

2. It is submitted that the Respondent No.8 in the year 2011, decided to shift the hospital location from Old Bus Stand, Una to near Police Line, Jhalera, Una. It is necessary to mention herein that in the two storeyed building near Police Line, Jhalera, Una (that is the subject matter of the present Application) only a small makeshift laboratory/ consultancy was set up by the Respondent No.08 initially whereas the rest of the premises was being solely used only for residential purpose upto the year 2013. Further, to initiate the process of setting up the 10 bedded hospital in the said premises, the Respondent No.8 submitted FORM-1 before the concerned authority for obtaining authorization under the Biomedical Waste (Management and Handling Rules), 1998. it is submitted that the Respondent No.8 wanted to have all the permissions before setting up the said 10 bedded hospital which indicates the intention of the Respondent No.8 to run the hospital as per law. As stated by the Applicant, the Authorization was granted by the Board on 31.12.2011 which was valid upto 31.03.2014.

3. That further renewal of Authorization was granted to the Respondent No.08 on 21.03.2015 which was valid till 31.03.2017. In the interregnum, the Ministry of Environment, Forest & Climate Change, Government of India in suppression of Bio-medical Waste (Management & Handling) Rules. 1998 vide notification dated 28.03.2016 revised and issued Bio-Medical Waste Management Rules, 2016 and as per Rule 10 of these revised rules the Health Care Facilities (HCFs) were required to obtain Consent under the Water (Prevention and Control of Pollution) Act, 1974. It is submitted that due to the aforementioned change, there was acute chaos and confusion with respect to permissions/consents/authorizations required or not required, due to which there was a slight delay in applying for renewal of Authorization, but the Respondent herein submitted an application dated 19.08.2018 for renewal of Authorization under Biomedical Waste (Management) Rules, 2016. It is submitted that the application submitted by the

*Respondent herein for renewal of Authorization under Biomedical Waste (Management) Rules, 2016 was complete in all respects and the requisite fees was also paid by the Respondent herein. **(Copy of Renewal Application @ Annexure-R/7 @ Page 48-50 of the Reply filed by the Respondent No.08)**. It is submitted that there was no reply whatsoever by the State Pollution Control Board on the application for renewal of authorization submitted by the Respondent herein. That as per Rule 10(3) of the Biomedical Waste (Management) Rules, 2016 since there was no reply to the application for renewal of authorization, the Respondent herein was deemed to be operating with the authorization of the State Board. Thus, legally speaking the hospital in question had deemed authorization in view of Rule 10(3) of the Biomedical Waste (Management) Rules, 2016. That Rule 10(3) of the Biomedical Waste (Management) Rules, 2016 is reproduced herein for your ready reference:*

"10(4) Every application for authorization shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents, failing which it shall be deemed that the authorization is granted under these rules"

*4. That since the Ministry of Environment, Forest & Climate Change, Government of India in suppression of Bio-medical Waste (Management & Handling) Rules, 1998 vide notification dated 28.03.2016 revised and issued Bio-Medical Waste Management Rules, 2016 and as per Rule 10 of these revised rules the Health Care Facilities (HCFs) were required to obtain Consent under the Water (Prevention and Control of Pollution Act, 1974, the Respondent herein submitted an Application for obtaining Consent to Establish and Consent to operate. It is submitted that the application submitted for obtaining the Consent to Establish as well as the Consent to Operate was complete in all respects and the requisite fees was also paid by the Respondent herein. **(Applications @ Annexure-R/6 @ Page 44-47 of the Reply filed by the Respondent No.08)**. It is submitted that there was no reply whatsoever by the State Pollution Control Board on the application for Consents submitted by the Respondent herein. That as per the provisions of the Water Prevention and Control of Pollution) Act, 1974, since there was no reply to the application for Consents, the Respondent herein was deemed to be operating with the consent of the State Board. Thus legally speaking the hospital in question had deemed consent in view of Section 25(7) of the Water (Prevention & Control of Pollution) Act, 1974. That Section 25(7) of the Water Prevention & Control of Pollution) Act, 1974 is reproduced herein for your ready reference:*

*"25(7)The consent referred to in sub-section (1) shall, unless given or refused earlier, **be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.**"*

5. It is in the humble submission of the answering Respondent herein that in all this duration, there was no reply by the State

Pollution Control Board accepting or rejecting or pointing out deficiencies in the application for Consents under Water (Prevention and Control of Pollution) Act, 1974 as well as in application for renewal of authorization under Bio Medical Waste Management) Rules, 2016 submitted by the Appellant herein. Thus, the Respondent herein was legally operating with deemed Consents as per Section 25(7) of the Water (Prevention & Control of Pollution) Act, 1974 and deemed Authorization as per Rule 10 (3) of the Biomedical Waste (Management) Rules, 2016.

6. That it is pertinent to mention herein that in the month of September 2019, the Respondent herein at the recommendation of the Mr. TB Singh who was at that time Principle Scientific Officer with the Respondent Board, installed a Sewage Treatment Plant of capacity 3 KLD in the premises. It is in the humble submission of the answering Respondent herein that not only did Mr. TB Singh (Ex Principle Scientific Officer with the Respondent Board) advise to install Sewage Treatment Plant but also asked the Respondent herein to apply again for the Consents under the Water (Prevention and Control of Pollution) Act, 1974 online as there was no reply by Respondent Board on the previous Application submitted by the Respondent Board in 2018. That blindly following the advice of Mr. TB Singh, the Respondent herein re-submitted and on application online for grant of Consents under the Water (Prevention and Control of Pollution) Act, 1974. It is submitted that along with the application made online, Mr. TB Singh also asked the Respondent herein to re-pay the fees from 2018 onwards. It is submitted that the Respondent herein paid an amount of Rs. 5000/- towards consent fees **(Receipt Annexure-R/13@Page 69 of the Reply filed by the Respondent No.08).**

7. It is pertinent to mention herein that even after re-applying for the consents under the Water (Prevention and Control of Pollution) Act, 1974 online, there was no reply whatsoever from the Respondent Pollution Control Board. It is submitted that on enquiring about the same from Mr. TB Singh (Ex Principle Scientific Officer with the Respondent Board), Mr. TB Singh demanded money in form of bribe from the Respondent herein for grant of Consents and also questioned the Respondent herein as to why the Sewage Treatment Plant was not installed from a favorite vendor of Mr. TB Singh and was rather bought and installed from some other place. That in light of the some the Respondent herein made a police complaint against Mr. TB Singh for demanding bribe for the release of Consent Certificates and an FIR being FIR No.04/2022 under Section 7 of Prevention of Corruption Act, 1988 was also registered against the then Chief Scientific Officer Mr. TB Singh by the State Vigilance & Anti-Corruption Bureau Himachal Pradesh and the said Mr. TB Singh was caught red handed accepting Rs. 3,70,000/- and was arrested. It is submitted that the matter is still under investigation by the State Vigilance & Anti-Corruption Bureau Himachal Pradesh.

8. It is submitted that the Consent to Operate under Water (Prevention and Control of Pollution) Act, 1974 pursuant to the second application submitted in 2021 was eventually granted to

*the Respondent Hospital on 16.08.2022 and is valid till 31.03.2027. **(Consent to Operate dated 16.08.2022 @ Annexure-R/17 @ Page 74-77 of the Reply filed by the Respondent No.08)**. Also, the Respondent Board has granted the renewed Authorization dated 12.12.2022 under the Bio Medical Waste Management) Rules, 2016 to the Respondent Hospital and the same is valid 31.03.2027. **(Renewed Authorization dated 12.12.2022 @ Annexure-R/18 @ Page 78-81 of the Reply filed by the Respondent No.08)**.*

Argument 2 of the Applicant: *Regarding Operation of Hospital by Respondent No.08 in a 2 Storey Building the Map of which is approved as a Residential Building by Town and Country Planning, Una.*

Our Defense:

1. That it is pertinent to mention herein that in respect of the provisions of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh, as per Clause/regulation 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) the uses permitted in the area earmarked for Residential Use are Residences, **Hospitals**, Boarding Houses, Nurseries, Kindergartens and Schools, Clinics, Social and cultural Institutions, Public Utilities and buildings except service and storage yards, agricultural gardens, nurseries and green houses, any neighborhood recreational uses including clubs and other semi-public recreational uses, accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard. Relevant provision is reproduced herein below for the ready reference of this Hon'ble Tribunal:-

"7.2.1.1 Uses Permitted- Residences, Hospitals, Boarding Houses, Nurseries, Kindergartens and Schools, Clinics, Social and Cultural Institutions, Public utilities and buildings, except service and storage yards; agriculture gardens, nurseries and green houses, any neighborhood recreational uses; including clubs and other semi-public recreational uses; accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard."

Further as per Clause/Regulation 7.1.(ii) of Sr. No. 7.1 (General Regulations) mixed land use is not prohibited unless otherwise a particular land use is hazardous. Relevant provision is reproduced herein below for the ready reference of this Hon'ble Tribunal:-

"ii. General land use in the development plan has been contemplated for specified use. However, mixed land use shall not be prohibited unless otherwise a particular land use is a hazardous in nature to the predominated use and fulfils the regulations fixed for the same."

Therefore, it is humbly submitted that the Respondent herein is not running the hospital in violation of the Development Plan for

Una Town issued by the Town and Country Planning Department, Himachal Pradesh,

2. In recent past, a small portion was added in the premises and as an abundant precaution, though not required, the Respondent herein applied to the Department of Town and Country Planning, Una for change of building use (hospital site) and composition of additional construction of garage situated on the right side of the hospital. It is submitted that the Special Area Development Authority, Una granted completion permission vide letter dated 19.01.2023 (Complete Permission vide letter dated 19.01.2023 @Annexure-R/20 @Page 86 of the Reply filed by the Respondent No.08)."

24. In view of the pleadings and material placed on record the following questions arise for adjudication in the present case : -

- (i) Whether the present application has been filed by the applicant malafide for some ulterior motive/extraneous considerations and is liable to be dismissed on this ground?
- (ii) Whether respondent no.8 was operating Shivalik Hospital in residential plot in non-conforming area in violation of Master Plan issued by Department of Town and Country Planning, Government of Himachal Pradesh?
- (iii) Whether respondent no.8 operated Shivalik Hospital in District Una, Himachal Pradesh without obtaining authorization under Rule 10 of the BMWMH Rules, 1998 and BMW Rules, 2016 and without obtaining consent under the Water Act, 1974 from HPSPCB?
- (iv) Whether respondent no. 8 is liable to pay any environmental compensation for violation of environmental norms?

Question no. (i)-Whether the present application has been filed by the applicant malafide for some ulterior motive/extraneous considerations and is liable to be dismissed on this ground?

25. Learned Counsel for respondent no. 8 has argued that the application has been filed malafide at the instance of Mr. T.B. Singh, the

then Principal Scientific Officer, HPSPCB. The jurisdiction of this Tribunal may not be allowed to be misused by interested litigants for their ulterior motives and the application may be dismissed on this ground.

26. This argument has been vehemently controverted by learned Counsels for the applicant who has argued that the application is not malafide and the applicant has raised the question of violation of environmental norms in public interest.

27. In **State of Uttar Pradesh and others Vs. Uday Education and Welfare Trust and another, reported as 2022 Live Law (SC) 868**, Hon'ble Supreme Court observed that before litigant is permitted to knock the door of the justice by way of public interest litigation his credentials and bonafides must be tested.

28. It may be observed that the applicant is not resident of the locality where respondent no. 8-Shivalik Hospital is situated or even any neighboring area in District Una and the applicant is resident of village Gagsona, Meerut, Uttar Pradesh situated far away therefrom. The applicant has not claimed to have worked as employee or to have taken treatment as patient in Respondent no. 8- Shivalik Hospital or to have ever visited the same. The applicant has not claimed himself to be a social worker or an environmentalist working for protection and improvement of environment. The applicant has not mentioned to have filed any other case for protection and improvement of environment in State of Himachal Pradesh or in State of Uttar Pradesh. The applicant has produced copies of notices/letters/documents dated 21.06.2004, 02.08.2005, 06.11.2006, 30.12.2008, 23.07.2011, 28.11.2011, 31.12.2012, 15.10.2013, 16.07.2014, 21.03.2015 and 27.07.2017 issued to respondent no. 8 by HPSPCB or submitted to HPSPCB by respondent no. 8 but the applicant

has not disclosed any particulars and has not placed on record any material to show how and from whom these documents were obtained by him. The applicant has not claimed to have obtained the same by filing application under the Right to Information Act, 2005. Said documents are not stated to have been uploaded on website of HPSPCB or to be available in public domain. The applicant has not filed affidavit and documents regarding his credentials and bona fides in filing of the present application in public interest. In these facts and circumstances, there appear to be reasonable grounds to doubt the credentials and bonafides of the applicant in filing of the present application.

29. However, it may be added here that in the present case allegations have been made by respondent no. 8 against Mr. T.B. Singh, the then Principal Scientific Officer, HPSPCB regarding harassment of and demand of bribe from respondent no. 8 and FIR no. 04/2022 under Section 7 of the Prevention of Corruption Act, 1988 was registered against Mr. T.B. Singh, the then Principal Scientific Officer, HPSPCB by the State Vigilance & Anti Corruption Bureau, Himachal Pradesh who was also arrested in the case but there is no cogent material on record to show that the applicant is related or known to Mr. T.B. Singh, the then Principal Scientific Officer, HPSPCB and the application cannot be said to have been filed mala fide at the instance of Mr. T.B. Singh, the then Principal Scientific Officer, HPSPCB.

30. It may be observed here that the averments made in the original application raise substantial questions relating to environment arising out of implementation of the Water Act, 1974 and BMWM Rules, 2016 framed under the Environment (Protection) Act, 1986 which are the enactments specified in First schedule of the NGT Act, 2010.

31. This Tribunal cannot lose sight of the fact that right to life includes within its sweep right to clean and healthy environment which cannot be denied and has to be protected and implemented in the fullest measure by all the instrumentalities of the State and the Project Proponents. This Tribunal can also take cognizance of questions relating to environment arising out of implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010 suo motu as held by Hon'ble Supreme Court in **Municipal Corporation of Greater Mumbai v. Ankita Sinha (2021) SCC Online SC 897: Law Finder Doc Id # 1890858: 2021 AIR (Supreme Court) 5147**. Accordingly this Tribunal is not only empowered but is in fact duty bound to adjudicate upon the substantial questions related to environment involved in the present case.

32. In view of the above discussed factual and legal perspective of the case, the application cannot be conclusively be said to malafide and is not liable to be dismissed on that ground.

Question no. (ii)-Whether respondent no.8 was operating Shivalik Hospital in residential plot in non-conforming area in violation of Master Plan issued by Department of Town and Country Planning, Government of Himachal Pradesh?

33. The grievance of the applicant is that respondent no.8 is operating the hospital in residential plot in non-conforming area in violation of the Master Plan for District Una.

34. Respondent no. 8 has submitted that respondent no.8 was running a 05 bedded hospital near old bus stand Una before shifting the hospital to the present location which is subject matter of the present application. Respondent no.8 started 10 bedded hospital in the year 2013 after

obtaining NOC dated 07.06.2013 from the office of the Gram Panchayat, District Una, Himachal Pradesh. Respondent no. 8 has attached copy of NOC dated 07.06.2013 issued from the office of the Gram Panchayat, District Una, Himachal Pradesh with its reply (copy at page no. 239 of the paper book). The applicant has not disputed the authenticity and genuineness of the NOC issued by the Gram Panchayat, District Una, Himachal Pradesh.

35. Respondent no. 8 has further submitted that the building maps for the construction of Two Storeyed Residential building at Khasra No.1546/14, 1546/15, 1546/16, 1546/21, 1546/22 & 1546/23 as per jamabandi for the years 2003-2004 of Mohal Jhalera Tehsil & District Una (H.P.) were approved vide No. SADA (Una) BP-630/2007-659 dated 22.11.2007 in the name of Shri Krishan Dass, Shri Akshay Kumar S/o Shri Krishan Das & Smt. Anupama W/o Sh. Akshay Kumar. The Shivalik Hospital is running in the building for which said maps were approved.

36. As per the report submitted by the Assistant Town Planner, Sub Division Town Planning Office Una, District Una (H.P.) vide letter No. SADA (Una)-Case No. BP-630/2007-334 dated 05.12.2022, **the Development Plan for Una Planning Area was approved by the Government of Himachal Pradesh vide notification No. TCP-F (5)-7/96 dated 23.04.1997. The Development Plan of Una Planning Area is valid till March, 2023. As per Development Plan of Una Planning Area the land falling under Shivalik Hospital situated at Mohal Jhalera has been earmarked for residential use.**

37. Clause 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) of Chapter Seven of Development Plan of Una Planning Area reads as under :-

"7.2.1.1 Uses Permitted- Residences, Hospitals, Boarding-Houses, Nurseries, Kindergartens and Schools, Clinics Social and Cultural Institutions, Public utilities and buildings, except service and storage yards; agriculture gardens, nurseries and green houses, any neighbourhood recreational uses; including clubs and other semi- public recreational uses; accessory uses clearly incidental to residential uses which will not create a nuisance and eco-hazard."

38. Since running of a Nursing Home (Hospital) is a permitted use in the residential area as per clause 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) of Chapter Seven of Development Plan of Una Planning Area, respondent no.8 cannot be said to be running the hospital in residential plot in non-conforming area in violation of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh and no change in land use was required.

39. Further as per Clause/Regulation 7.1.(ii) of Sr. No. 7.1 (General Regulations) mixed land use is not prohibited unless otherwise a particular land use is hazardous. Relevant provision is reproduced below for ready reference:

"(ii) General land use in the development plan has been contemplated for specified use. However, mixed land use shall not be prohibited unless otherwise a particular land use is hazardous in nature to the pre dominated use and fulfils the regulations fixed for the same."

40. Running of a Nursing Home (Hospital) cannot be said to be hazardous in nature to the pre dominated use and fell within permissible "mixed land use".

41. In view of the above, respondent no.8 cannot be said to be running the hospital in residential plot in non-conforming area in violation of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh.

42. In the present case notice bearing No. SADA (Una)-Case No. BP-630/2007-333 dated 01.12.2022 was issued to Shri Krishan Dass, Shri Akshay Kumar S/o Sh. Krishan Das and Smt. Anupama w/o Sh. Akshay Kumar c/o Shivalik Hospital Jhalera, Tehsil & District Una (H.P.) for operating "Hospital" in the building constructed at 1546/14, 1546/15, 1546/16, 1546/21, 1546/22 & 1546/23 situated in Mohal Jhalera requiring them to submit the proposal/maps for obtaining the permission for change of building use failing which action under Section 39 of the Himachal Pradesh Town & Country Planning Act, 1977 would be taken against them.

43. In additional reply dated 18.11.2024 respondents no. 6 and 7 have mentioned that the Member Secretary, Special Area Development (H.P.), Authority, Una-cum-ATP Una District Una has, vide his office letter No. SADA (Una)-Case No. BP-630/2007-201 dated 12.11.2024, reported that as per provisions of clause 7.2.1.1 of Sr. No. 7.2.1 (Residential Use) of Chapter Seven of the Development Plan of Una Planning Area the permission for change of building use was granted to said land owners vide reference No. 04202300032 dated 19.01.2023.

44. In these facts and circumstances of the case respondent no. 8 cannot be said to have operated the hospital in residential plot in non-conforming area in violation of the Development Plan for Una Town issued by the Town and Country Planning Department, Himachal Pradesh.

Question No. (iii) Whether respondent no.8 operated Shivalik Hospital in District Una, Himachal Pradesh without obtaining authorization under Rule 10 of the BMWMH Rules, 1998 and BMWM Rules, 2016 and without obtaining consent under the Water Act, 1974 from HPSPCB?

45. In exercise of the powers conferred by Sections 6,8 and 25 of the Environment (Protection) Act, 1986 the Central Government notified the BMWMH Rules 1998 for the handling and management of bio-medical waste.

Requirement of Authorization under the BMWMH Rules, 1998/the BMWM Rules 2016 from HPSPCB

46. Rule 3 (8) of the BMWMH Rules, 1998 defined the expression 'occupier' as under:-

“(8) "occupier" in relation to any institution generating bio-medical waste, which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank by whatever name called, means a person who has control over that institution and/or its premises”

47. Rule 4 of the BMWMH Rules, 1998 mandated that every occupier of an institution generating bio-medical waste which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank by whatever name called to take all steps to ensure that such waste is handled without any adverse effect to human health and the environment.

48. Rule 5 of the BMWMH Rules, 1998 mandated that Bio-medical waste shall be treated and disposed of in accordance with Schedule I, and in compliance with the standards prescribed in Schedule V of the abovesaid Rules.

49. Rule 8 of the BMWMH Rules, 1998, which dealt with Authorization under the abovesaid Rules provided as under:-

“8. Authorisation.-(1) Every occupier of an institution generating, collecting, receiving, storing, transporting, treating, disposing

and/or handling bio-medical waste in any other manner, except such occupier of clinics, dispensaries, pathological laboratories, blood banks providing treatment/ service to less than 1000 (one thousand) patients per month, shall make an application in Form I to the prescribed authority for grant of authorisation.

(2) Every operator of a bio-medical waste facility shall make an application in Form I to the prescribed authority for grant of authorisation.

(3) Every application in Form 1 for grant of authorisation shall be accompanied by a fee as may be prescribed by the Government of the State or Union Territory.

1/(4) The authorization to operate a facility shall be issued in Form IV, subject to conditions laid therein and such other condition, as the prescribed authority, may consider it necessary.]”

50. In the present case, respondent no.8 has admitted that initially Hospital near the bus stand was established in the year 2006 and that respondent no. 8 fell within the definition of “occupier” under Rule 3 (8) of the BMWMH Rules, 1998. In view of Rule 8 of the BMWMH Rules, 1998 respondent no. 8 was required to obtain authorization under Rule 8 of the BMWMH Rules, 1998 from HPSPCB. Respondent no.8 was granted authorization by HPSPCB under BMWMH Rules, 1998 on 06.11.2006 which was renewed from time to time and was lastly renewed on 21.03.2015 with validity up to 31.03.2017.

51. MoEF&CC in supersession of the BMW (M&H) Rules, 1998 enacted BMW Rules, 2016.

52. Rule 3(m) the BMW Rules, 2016 defines the expression occupier as follows:-

“(m) “occupier” means a person having administrative control over the institution and the premises generating biomedical waste, which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank, health care facility and clinical establishment, irrespective of their system of medicine and by whatever name they are called”

53. Rule 4 of the BMW Rules, 2016 lays down the duties of occupier while Rule 5 of the BMW Rules, 2016 lays down the duties of common bio-medical waste treatment and disposal facility. Rule 10 of the BMW Rules, 2016 lays down the procedure for authorization and the same reads as under:-

“10. Procedure for authorisation.-Every occupier or operator handling bio-medical waste, irrespective of the quantity shall make an application in Form II to the prescribed authority i.e. State Pollution Control Board and Pollution Control Committee, as the case may be, for grant of authorisation and the prescribed authority shall grant the provisional authorisation in Form III and the validity of such authorisation for bedded health care facility and operator of a common facility shall be synchronised with the validity of the consents.

(1) The authorisation shall be one time for non-bedded occupiers and the authorisation in such cases shall be deemed to have been granted, if not objected by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents.

(2) In case of refusal of renewal, cancellation or suspension of the authorisation by the prescribed authority, the reasons shall be recorded in writing: Provided that the prescribed authority shall give an opportunity of being heard to the applicant before such refusal of the authorisation.

(3) Every application for authorisation shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such necessary documents, failing which it shall be deemed that the authorisation is granted under these rules.

(4) In case of any change in the bio-medical waste generation, handling, treatment and disposal for which authorisation was earlier granted, the occupier or operator shall intimate to the prescribed authority about the change or variation in the activity and shall submit a fresh application in Form II for modification of the conditions of authorisation.”

54. In view of resolutions passed by all the Houses of the legislatures of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura, and West Bengal in pursuance of Clause (1) of Article 252 of the

Constitution of India for regulation in those States by Parliament by making laws for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water and for the establishment of of Boards for the prevention and control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto, the water Act, 1974 was enacted.

Requirement of Consents under the Water Act, 1974 from HPSPCB

55. Section 25 (1) of the Water Act, 1974 which puts restrictions on new outlets and new discharge provides as under:-

“25. Restrictions on new outlets and new discharge.-(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—
(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or
(b) bring into use any new or altered outlet for the discharge of sewage; or
(c) begin to make any new discharge of sewage:
Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.”

56. Vide letter no. B29012/1/2012/ESS/1526-1563 dated 04.06.2012 the CPCB issued directions under Section 18(1)(b) of the Water Act, 1974 directing the SPCBs/PCCs to maintain uniformity in categorization of industries as Red, Green and Orange by adopting the list as given at Table 7.3, 7.4 & 7.5 in the enclosed report for grant of consent, inventorization of industries in red, green and orange category and other related activities. In “Table 7.3 : List of Red category of industries” of the above said report

“Health Care Establishment (as defined in BMW Rules was covered at serial number 26 as red category industry.

57. The CPCB developed a scoring methodology based on the Pollution Index to harmonize the Criteria for classification of industrial sectors and vide letter no. B29012/ESS(CPA)/2015-16 dated 07.03.2016 issued directions under Section 18(1)(b) of the Water Act, 1974 directing the SPCBs/PCCs to adopt the revised classification. **Entry No.30 of Table G2: Final List of Red Category of Industrial Sectors reads as under:-**

Table G-2 : Final List of Red Category of Industrial Sectors

Sr. no.	Orgnil SI No.	Industry Sector	W1	W2	W	A1	A2	A	H	W+A+H	Revised Category	Remarks
30.	26	Health-care Establishment (as defined in BMW Rules)	20	10	30	-	-	-	-	75	R-R	-i. Mainly water polluting. ii. The water pollution score is normalized to 100 & valid for Hospitals having total waste-water generation > 100 KLD. iii. The hospitals with incinerator will be categorized as Red irrespective of the quantity of the waste water generation. iv. The hospitals having total waste-water generation less than 100 KLD and without incinerator, the normalized water pollution score will be 50 and will be categorized as Orange category.

58. Based on the experience gained over the years in Pollution Index calculation, use of cleaner fuels like PNG/CNG etc., adoption of cleaner technology resulting in reduced emission/wastewater generation and recommendations of the Committee constituted vide order dated 26.09.2023 the CPCB revisited the classification methodology of 2016 and vide letter no. CP-18/1/2023-IPC-VI-HO-CPCB-HO dated 12.02.2025 issued directions under Section 18(1)(b) of the Water Act, 1974 directing the SPCBs/PCCs to immediately adopt the revised methodology for

classification of sectors and list of 419 sectors/sub-sectors classified under Red, Orange, Green, White, and Blue categories as detailed in the attached report- "Classification of Sectors into Red, Orange, Green, White and Blue Categories (A tool for progressive environmental management)". Entry No.3.0 of Service/Infrastructure of Development Sectors of Annexure III (List of Service/Infrastructure Development Sectors Classified under Red, Orange, Green, and White categories) reads as under:-

Sno.	Sector	W1	W2	W3	Plw	A1	A2	A3	PIA	H1	H2	PIH	Pollution Index (PI)	Category	Remarks	Concerned Division
3.0 HEALTH CARE FACILITIES (HCFS, AS DEFINED UNDER BIO-MEDICAL WASTE MANAGEMENT RULES, 2016)																
3.1	HCfs with captive incinerator, irrespective of number of beds	20	0	15	35	35	20	25	80			50	88.5	Red	Sector generates bio-medical waste. As per methodology scores assigned to H.	WM-I
3.2	more than 1000 bedded HCfs	20	0	35	55	0	0	0	0			100	100.0	Red		WM-I
3.3	501 to 1,000 bedded HCfs	20	0	30	50	0	0	0	0			80	85.0	Red		WM-I
3.4	201 to 500 bedded HCfs	20	0	30	50	0	0	0	0			60	70.0	Orange		WM-I
3.5	51 to 200 bedded HCfs	20	0	20	40	0	0	0	0			50	60.0	Orange		WM-I
3.6	11 to 50 bedded HCfs	20	0	20	40	0	0	0	0			40	52.0	Green		WM-I
3.7	Up to 10 bedded HCfs	20	0	15	35	0	0	0	0			30	44.8	Green		WM-I
3.8	Non-bedded HCfs	0	0	0	0	0	0	0	0			25	25.0	Green		WM-I

59. Respondent no.8 has submitted that Authorization was granted by the Board on 31.12.2011 which was valid upto 31.03.2014 and further renewal of Authorization was granted to respondent no.08 on 21.03.2015 which was valid till 31.03.2017.
60. Respondent no.8 has submitted that as per the BMWMH Rules,1998 the **Health Care Facilities (HCF's) were required to obtain only authorization under the above said Rules and there was no requirement for obtaining Consent under the Water Act, 1974.** However, the MOEF&CC in suppression of BMWMH Rules 1998 vide notification dated 28.03.2016 revised and issued BMW Rules, 2016 and

as per Rule 10 of the revised rules the Health Care Facilities (HCFs) were required to obtain Consent under the Water Act, 1974 in addition to Authorization from the SPCBs/PCCs. HPSPCB has also acknowledged this legal perspective but this legal perspective ignores the provisions of Section 25 (1) of the Water Act, 1974 and CPCB letter no. B29012/1/2012/ESS/1526-1563 dated 04.06.2012 which categorized "Health Care Establishment (as defined in BMW Rules) as Red category industry mandatorily requiring consents from SPCBs/PCCs.

61. It may be observed here that rule 10 of the BMWM Rules 2016 merely provided for synchronization of validity of authorization with the validity of the consents and rule 10 of the BMWM Rules 2016 did not contain any specific provision mandating applicability of the Water Act 1974 which applied on its own force in terms of its own provisions. As per letter no. B29012/1/2012/ESS/1526-1563 dated 04.06.2012 issued by CPCB health care facility enlisted in the list as red category industries mandatorily required consents but it appears that CPCB and SPCBs/PCCs did not look into this aspect and appear to have harboured the impression that rule 10 of the BMWM Rules 2016 mandated requirement of consents under the Water Act, 1974 from the date of commencement of the above said Rules.

62. We are of the considered view that on any change of categorization of industries or change in law on amendment/enactment appropriate communication ought to be issued and wide publicity ought to be given by SPCBs/PCCs to such change of categorization of industries or change in law so as to bring the same to the notice of all already existing industries/project proponents thereby affected.

63. We are also of the considered view that in the present case HPSPCB ought to have taken action regarding synchronization of validity of authorization under rule 10 of the BMWM Rules 2016 with validity of consents immediately on commencement of the BMWM Rules 2016 by issuing appropriate communications to the health care facilities to which authorization had been granted earlier without such synchronization instead of waiting for filing of applications for renewal on expiry of the respective periods of validity.

64. Be that as it may, HPSPCB did not issue any letter to respondent no. 8 regarding the requirement of obtaining consents from it immediately on issuance of letter B29012/1/2012/ESS/1526-1563 dated 04.06.2012 by CPCB and also on enforcement of rule 10 of the BMWM Rules 2016.

65. Respondent No.8 has submitted that due to the aforementioned change, there was acute chaos and confusion with respect to permissions/consents/authorizations required or not required and we find this submission is supported by the material on record and responses of CPCB and HPSPCB.

66. Respondent no.8 has submitted that due to chaos and confusion with respect to permissions/consents/authorizations required or not required there was a slight delay in applying for renewal of Authorization. Respondent no.8 submitted application dated 19.08.2018 (pages no. 250 to 252 of the paper book) for renewal of Authorization under BMWM Rules, 2016 and respondent no.8 submitted application dated 19.08.2018 (pages no. 246 to 249 of the paper book) for CTE and CTO to HPSPCB which are stated to be complete in all respects and accompanied by the requisite fees.

67. In its reply HPSPCB has stated that in response to HPSPCB letter dated 27.07.2017 respondent no. 8 submitted application dated 19.08.2017 for consent and application dated 22.08.2017 for grant of authorization. However, HPSPCB has not produced any cogent material on record to prove delivery/communication of above said letter to respondent no.8/ receipt of above said letters by respondent no.8 and HPSPCB has not produced copies of applications dated 19.08.2017 and 22.08.2017.

68. HPSPCB has submitted that the Principal Scientific Officer, Central Laboratory, Parwanoo wrote letter dated 19.12.2017 seeking documents mentioned therein and letter dated 15.03.2018 asking for deposit of prescribed fee but respondent no.8 has denied having received the same and also claimed that Mr. TB Singh the then Principal Scientific Officer, HPSPCB purposely made sure that no communication in form of notices or letters issued by HPSPCB reached respondent no.8. Respondents no. 4 and 5 have not produced any cogent material on record to prove delivery/communication of above said letters to respondent no.8/ receipt of above said letters by respondent no.8.

69. It may be observed here that HPSPCB has not denied the facts regarding submissions of applications by respondent no. 8 on 19.08.2018 and HPSPCB has not produced any material regarding sending of any letter to respondent no. 8 regarding the same and passing of orders refusing the same within the period of 90 days prescribed under section 10 (3) of the BWM Rules 2016/ four months under section 25 (7) of the Water Act, 1974 respectively.

70. HPSPCB has claimed that respondent no. 8 submitted online application no. 5060025 dated 08.03.2022 for CTE online application no.

5060056 dated 17.03.2022 for CTO and online application no. 7258169 dated 24.09.2022 for authorization.

71. Respondent no. 8 has submitted that Mr. T.B. Singh the then Principal Scientific Officer, HPSPCB asked respondent no.8 to apply again for the Consents under the Water Act, 1974 online as there was no reply by HPSPCB on the previous Application submitted to HPSPCB in 2018 and to avoid harassment, respondent no.8 re-submitted applications online for grant of Consents under the Water Act, 1974. Mr. T.B. Singh also asked respondent no.8 to re-pay the fees from 2018 onwards and respondent no. 8 paid amount of Rs. 5000/- towards consent fees. Even after re-applying for the consents under the Water Act, 1974 online, there was no reply whatsoever from the HPSPCB. On enquiring about the same from Mr. T.B. Singh, the later demanded money in form of bribe from Respondent no.8 for grant of Consents and also questioned Respondent no.8 as to why the Sewage Treatment Plant was not installed from the suppliers recommended by Mr. T.B. Singh and was rather bought and installed from some other place. Respondent no.8 made a police complaint against Mr. T.B. Singh for demanding bribe for the release of Consent Certificates and FIR no. 04 dated 31.03.2022 under Section 7 of the Prevention of Corruption Act, 1988 was registered against Mr. T.B. Singh by the State Vigilance & Anti Corruption Bureau, Himachal Pradesh. Chargesheet was filed by the State Vigilance & Anti-Corruption Bureau Himachal Pradesh in the Competent Court and the matter is still under trial.

72. This claim of respondent no. 8 is substantiated by FIR no. 04 dated 31.03.2022 (pages no. 236 to 238 of the paper book) registered under Section 7 of the Prevention of Corruption Act, 1988 and chargesheet filed

against Mr. T.B. Singh, the then Chief Scientific Officer by the State Vigilance & Anti Corruption Bureau Himachal Pradesh.

73. **With reference to online application no. 7258169 dated 24.09.2022 authorization under Rule 10 of the BMWM Rules, 2016 valid from 12.12.2022 to 31.03.2027 was granted to respondent no. 8 vide letter no. HPSPCB/BMW:7258169 dated 12.12.2022.** With reference to application no. 5060025 dated 08.03.2022 **Consent to Establish valid from 26.05.2022 upto 25.05.2023 was granted to respondent no. 8 vide letter no. 117 HPSPCB dated 26.05.2022.** With reference to application no. 5060056 dated 17.03.2022 **Consent to Operate valid from 16.08.2022 upto 31.03.2027 was granted to respondent no. 8 vide letter no. 117 HPSPCB dated 16.08.2022.**

74. As per material on record there was no further communication by the HPSPCB on the applications dated 19.08.2018 for consents and renewal of authorization submitted by respondent no. 8 till grant of CTE vide letter no. 117 HPSPCB dated 26.05.2022, CTO vide letter no. 117 HPSPCB dated 16.08.2022 and authorization vide letter no. HPSPCB/BMW:7258169 dated 12.12.2022.

75. In the above discussed facts and circumstances, respondent no.8 cannot be said to be responsible for delay in grant of CTE and CTO under the Water Act, 1974 and authorization under Rule 10 of the BMWM Rules, 2016.

76. Rule 10(3) of the BMWM Rules, 2016, which provides for deemed consent, reads as under: -

“10(3) Every application for authorization shall be disposed of by the prescribed authority within a period of ninety days from the date of receipt of duly completed application along with such

necessary documents, failing which it shall be deemed that the authorization is granted under these rules.”

77. Section 25(7) of the Water Act, 1974, which provides for deemed consent, reads as under: -

“(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.”

78. As per the material on record, there was no further communication by the HPSPCB in respect of the applications dated 19.08.2018 for consent and renewal of authorization till grant of CTE vide letter no. 117 HPSPCB dated 26.05.2022, CTO vide letter no. 117 HPSPCB dated 16.08.2022 and authorization vide letter no. HPSPCB/BMW:7258169 dated 12.12.2022. Since, the application dated 19.08.2018 filed by respondent no.8 for authorization was not disposed of within the period of 90 days prescribed under rule 10 (3) of the BMW Rules, 2016 and the application dated 19.08.2018 filed by respondent no.8 for consents was not disposed of within the period of four months prescribed under 25(7) of the Water Act, 1974, respondent no. 8 must be deemed, as per Rule 10(3) of the BMW Rules, 2016 and section 25 (7) of the Water Act, 1974 to be operating with requisite authorization and consents from HPSPCB and respondent no.8 cannot be said to have operated Shivalik Hospital in District Una, Himachal Pradesh without authorization and consents from HPSPCB during the period from the date of above said applications till filing of online applications on 08.03.2022, 17.03.2022 and 24.09.2022 which were disposed of by grant of CTE on 26.05.2022, by grant of CTO on 16.08.2022 and authorization on 12.12.2022.

79. In view of the above, respondent no.8 can not be said to have operated Shivalik Hospital in District Una, Himachal Pradesh without obtaining authorization under Rule 10 of the BMWMH Rules, 1998 and BMW Rules, 2016 and without obtaining consent under the Water Act, 1974 from HPSPCB at the time of filing of the present original application.

Question no.(iv)-Whether respondent no. 8 is liable to pay any environmental compensation for violation of any environmental norms?

80. It may be observed here that Respondent no.8 being a clinical establishment was required to be registered under Section 14 of the Clinical Establishment Act, 2010. As per material on record Respondent no.8 was registered under the above-said enactment as mentioned below:-

Sr. No.	Particulars of Provisional Registration as a clinical establishment under Section 14 of the Clinical Establishment Act, 2010
1	Provisional Registration certificate dated 08.02.2018 valid for a period of 1 year i.e.upto 08.02.2019.
2.	Provisional Registration certificate dated 01.04.2019 valid for a period of 1 year i.e.upto 01.04.2020.
3.	Provisional Registration certificate dated 05.09.2022 valid for a period of 1 year i.e.upto 05.09.2023.

81. **Respondent no.8 was required to enter into agreements with CBWTF for collection/transportation / treatment and disposal of bio-medical waste. As per material on record Respondent no.8 entered into the agreements as mentioned below:-**

Sr. No.	Particulars of agreement for collection of bio-medical waste
1.	Agreement with (Bio Medical Waste Treatment Trust) BMWT Plant Pvt. Ltd., Village Pangoli, Pathankot w.e.f. 07-07-2005
2.	Agreement dated 01.04.2014 with Bio Medical Waste Treatment Plant Pvt. Ltd. Valid upto 01.04.2019.
3.	Agreement dated 14.02.2018 with Suraksha Bio-Sanitizer valid upto 31.03.2019.
4.	Agreement dated 01.04.2019 with Suraksha Bio-Sanitizer valid upto 31.03.2020.
5.	Agreement dated 01.04.2020 with Suraksha Bio-Sanitizer valid upto 31.03.2021.
6.	Agreement dated 01.04.2021 with Suraksha Bio-Sanitizer valid upto 31.03.2022.
7.	Agreement dated 01.04.2022 with Enviro Engineers valid upto 31.03.2023.

82. It may be observed here that respondent no. 8 has claimed that in the month of September 2019, at the recommendation of Mr. TB Singh, the then Principal Scientific Officer, HPSPCB, respondent no.8 installed Sewage Treatment Plant of capacity of 3 KLD in the premises. In support of this submission respondent no. 8 has produced copy of photograph of the Sewage Treatment Plant as well as the bill for purchase/installation of the Sewage Treatment Plant issued by Apex Enviro as Annexure-R/11. Respondent no.8 has also claimed that the Respondent Hospital was

inspected by the officers of HPSPCB and samples from the sewage treatment plant of the Hospital were collected on 19.11.2022 and that as per the report dated 14.12.2022 (Annexure-R/19) the parameters of the samples collected from the sewage treatment plant of the Hospital were found to be well within the prescribed standard limits.

83. In their reply respondents no. 4 and 5 have admitted that respondent no.8 HCF has installed STP of 3 KLD as per BMW Rules, 2016; and that the results of final outlet of STP installed by respondent No. 8 for the month of November, 2022 met the prescribed norms and undertaken that further inspection and sampling of the unit shall continue to be carried out to ensure adherence of the Hospital to environmental norms.

84. Respondent no.8 has submitted that the allegation of the Applicant that the Respondent Hospital is discharging all its Bio Medical Waste outside the hospital is erroneous and without any evidence on record; that starting from the year 2014 till date, Respondent no.8 Hospital has entered into Agreements with Bio Medical Waste Collection facilities for collection of Bio Medical Waste from the hospital and the same have been placed on record for the convenience of this Tribunal; that in its day to day operation Respondent no.8 Hospital is neither discharging any untreated effluent nor is disposing off its Bio Medical Waste outside the premises of the Hospital and no environmental damage is caused by Respondent no.8 Hospital.

85. In their reply respondents no. 4 and 5 have admitted that earlier the respondent No. 8 (Hospital Care Facility) was in agreement with (Bio Medical Waste Treatment Trust) BMWT Plant Pvt. Ltd., Village Pangoli, Pathankot w.e.f. 07.07.2005 for transportation and disposal of Bio-medical

waste (copy annexed as Annexure R-4/7) and presently, the HCF of respondent No. 8 is in agreement with M/s Enviro Engineer, the Common Bio-medical Waste facility (CBWTF) Industrial Area Pandoga, Una for collection/transportation / treatment and disposal of bio-medical waste (copy annexed as Annexure R-4/8).

86. In view of finding on Question no. (I) respondent no.8 cannot be said to have operated the above said hospital in residential plot in non-conforming area in violation of the Master Plan issued by the Department of Town and Country Planning, State of Himachal Pradesh. Even if it be assumed that there was any violation, the same has been regularized with retrospective effect by permitting composition and grant of change of land use.

87. The present original application was filed on 15.10.2022. By Section 15 (3) of the NGT Act, 2010 this Tribunal is barred from entertaining application for relief made beyond period of five years from the date on which cause for such relief arose and in view thereof this Tribunal is not required to go into the question of imposition of EC for violations which occurred more than five years prior to the date of filing of the original application.

88. In the present case, HPSPCB has submitted that the Principal Scientific Officer, Central Laboratory, Parwanoo vide letter dated 27.07.2017 asked respondent no.8 to apply for consent under the Water Act, 1974 and authorization under the BMWM Rules, 2016 and in view thereof intervention by this Tribunal for imposition of EC for not obtaining of consents prior to 27.07.2017 is not warranted.

89. In the present case by the material on record respondent no. 8 was granted authorization under Rule 8 of BMWMH Rules, 1998/Rule 10 of BMWM Rules, 2016 and CTE/CTO under sections 25/26 of the Water Act, 1974 as shown in the following tables:-

Authorization under Rule 8 of BMWMH Rules, 1998/Rule 10 of BMWM Rules, 2016		
Date of application	Date of grant	Period of validity
Not available	06.11.2006	06.11.2006 to 31.03.2008
Not available	30.12.2008	30.12.2008 to 31.03.2011
Not available	31.12.2011	31.12.2011 to 31.03.2014
Not available	21.03.2015	21.03.2015 to 31.03.2017
22.08.2017/ 19.08.2018/ 24.09.2022	12.12.2022	12.12.2022 to 31.03.2027

CTE/CTO granted under sections 25/26 of the Water Act, 1974		
Date of application	Date of grant	Period of validity
19.08.2017/ 08.03.2022/ 17.03.2022	CTE dated 26.05.2022	26.05.2022 to 25.05.2023
	CTO dated 16.08.2022	16.08.2022 to 31.03.2027

90. It may be observed here that respondent no. 8 cannot be said to be solely responsible for the gaps in grant of authorization under Rule 8 of BMWMH Rules, 1998 and Rule 10 of BMWM Rules, 2016 and delay in grant of consents under the Water Act, 1974 which is also attributable to confusion/chaos created due to lack of information, appropriate clarifications and alleged corruption by Mr. T. B. Singh. It may also be added here that respondent no. 8 made appropriate arrangements for collection/transportation/treatment and disposal of bio-medical waste and discharge of treated effluent and no damage to environment was caused. No complaint regarding violation of BMWM Rules, 2016 and the Water Act, 1974 was ever made to HPSPCB by the applicant or any other person. In

their reply respondents no. 4 and 5 have also admitted that during the period of its operation no complaint or matter regarding improper disposal of Bio medical waste or water pollution by the respondent No. 8 came to notice of HPSPCB.

91. In these facts and circumstances and in view of finding on Question no. (iii), respondent no.8 cannot be said to have operated Shivalik Hospital in District Una, Himachal Pradesh in violation of the BMW Rules, 2016 and the Water Act, 1974 and respondent no. 8 is not liable to pay any environmental compensation on that account with the consequence that issuance of directions to CPCB/HPSPCB for imposition of any environmental compensation on respondent no.8 is not warranted.

Expeditious disposal of applications for grant of authorization/CTE/CTO by SPCBs/PCCS

92. In the present case respondent no. 8 has claimed to have submitted application dated 19.08.2018 (pages no. 246 to 249 of the paper book) for consent to establish and application dated 19.08.2018 (pages no. 250 to 252 of the paper book) for renewal of authorization under BMW Rules, 2016 and to have submitted online applications subsequently at the instance of Mr. T.B. Singh.

93. In its reply HPSPCB has stated that in response to HPSPCB letter dated 27.07.2017 respondent no. 8 submitted application dated 19.08.2017 for consents and application dated 22.08.2017 for grant of authorization. HPSPCB has submitted that the Principal Scientific Officer, Central Laboratory, Parwanoo wrote letter dated 19.12.2017 seeking documents mentioned therein and letter dated 15.03.2018 asking for deposit of prescribed fee but HPSPCB has failed to produce any material to

prove sending of above said letters to respondent no. 8 and has also not produced copies of applications dated 19.08.2017 and 22.08.2017.

94. It may be observed here that HPSPCB has not denied the facts regarding submissions of application by respondent no. 8 on 19.08.2018 and has not produced any material regarding sending of any letter to respondent no. 8 regarding the same.

95. It may also be added here that online application no. 7258169 dated 24.09.2022, HPSPCB granted authorization vide letter no. HPSPCB/BMW:7258169 dated 12.12.2022 and on online application no. 5060025 dated 08.03.2022 and online application no. 5060056 dated 17.03.2022 HPSPCB granted Consent to Establish to respondent no. 8 vide letter no. 117 HPSPCB dated 26.05.2022 and Consent to Operate vide letter no. 117 HPSPCB dated 16.08.2022.

96. Incidents of such unreasonable delays in disposal of applications for grant of authorization/CTE/CTO by SPCBs/PCCs abound and also surface in numerous cases coming up before this Tribunal which warrant taking of appropriate remedial measures.

97. We are of the considered view that applications for grant of authorization and CTE/CTO need to be disposed of within statutorily prescribed periods of 90 days under Rule 10 (3) of BMWM Rules, 2016 and four months under Section 25 (7) of the Water Act, 1974 as long unreasonable delay in disposal of applications for grant of authorization and CTE/CTO leads to corruption and also other complications and remedial measures are required to be taken to prevent the same. Accordingly, CPCB is directed to prepare SoP and to issue appropriate directions for disposal of applications for authorization and grant of

CTE/CTO by SPCBs/PCCs in time bound manner within the prescribed periods and also for uploading of the information on website of the concerned SPCB/PCC and on the website of the concerned Regional Office regarding pendency of the applications beyond the prescribed period and reasons for delay.

Necessity for Proactive approach by CPCB/SPCBs/PCCs for protection and improvement of environment

98. We are also of the considered view that CPCB/SPCBs/PCCs being under constitutional and Statutory obligations for protection and improvement of environment are required to adopt Proactive approach for ensuring compliance with environmental laws/norms by issuing appropriate circulars, letters, notices and making requisite inspections, giving requisite directions for specific remedial measures with specific timelines and pass appropriate orders including conditional/absolute closure orders to the concerned Project Proponents as may be required and cannot adopt **“sit and wait in the office till violations are reported”**, turn blind eye to violations of environmental laws/norms, feel contended by **merely issuing show cause notices repeatedly without passing orders on the same** or by passing orders for **imposition of environmental compensation without realization and also utilization of the environmental compensation imposed for remediation of the environmental damage caused.**

99. We are also of the considered view that in view of the constitutional and statutory obligations for protection and improvement of environment, any complaint regarding violation of environmental laws/norms made with relevant details and supporting material to SPCBs/PCCs has to be looked into by the concerned SPCB/PCC and requisite remedial action has to be

taken on the same in accordance with law and the complainant has to be informed about the action taken on the complaint with specific information regarding availability of legal remedy of appeal/revision against the same.

Directions by the Tribunal

100. Accordingly, in exercise of powers under Sections 14 and 15 of the NGT Act, 2010, CPCB is directed to prepare SoP and issue appropriate directions to SPCBs/PCCs of all the States and UTs for (i) expeditious disposal of applications for grant of authorization/CTE/CTO by SPCBs/PCCs within prescribed periods; (ii) adoption of Proactive approach for ensuring compliance with environmental laws/norms by issuing appropriate circulars, letters, notices and making requisite inspections, giving requisite directions for specific remedial measures with specific timelines and pass appropriate orders including conditional/absolute closure orders to the concerned Project Proponents as may be required; and (iii) to create web-portal for redressal of grievances and to look into complaints regarding violation of environmental laws/norms made with relevant details and supporting material and to take requisite remedial action on the same in accordance with law and also to inform the complainant about the action taken on the complaint with specific information regarding availability of legal remedy of appeal/revision against the same and also to upload the information regarding the same on the web-portal.

101. In view of the above discussion the present original application is disposed of with no order as to costs and with directions to CPCB as mentioned above.

102. The Member Secretary, CPCB is directed to file Action taken Report in this regard within three months before the learned Registrar General of this Tribunal who shall ensure placing of the report so received and in case of non-receipt thereof, office report in this regard before the Bench for such further orders as may be considered necessary.

103. A copy of this order may be sent to the Member Secretary, CPCB by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 8th, 2025
AG