

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (with Hybrid Option)]

**ORIGINAL APPLICATION NO. 191 OF 2024 (WZ)
[Earlier Original Application No.811/2024 (PB)]**

P.V. Patel ... **Applicant**

Versus

State of Maharashtra & Anr. ... **Respondents**

WITH

**ORIGINAL APPLICATION NO. 207 OF 2023 (WZ)
[Earlier Letter Petition No.62/2023 (WZ)]**

The Corner Co-op. Housing Society Ltd. ... **Applicant**

Versus

Member Secretary, MPCB & Anr. ... **Respondents**

Date of Hearing : 26.11.2024

**CORAM : HON’BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON’BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : None in both O.As.

Respondents : Mr. Aniruddha Kulkarni, Advocate for MPCB in both O.As.

ORDER

1. Vide our previous order dated 04.11.2024 passed in O.A. No.191 of 2024 (WZ), we had directed the Registry to send a letter to the applicant in O.A. No.191/2024, informing him about this matter having been transferred to this Bench by the Principal Bench of this Tribunal and directing him to appear before this Tribunal on the next date of listing of the matter i.e. today. But it appears that the Registry has failed to inform the applicant as directed by us as there is no report submitted by it in that regard. Therefore, we direct the learned Registrar to explain as to why the applicant was not informed as directed by us vide our previous order. Now,

we direct the Registry to make effective compliance by issuing notice/letter upon the applicant that this matter has been transferred by the Principal Bench to this Bench for hearing.

2. From the side of respondent No.1 – MPCB, learned counsel Mr. Aniruddha Kulkarni has appeared, who had submitted on the previous occasion that in identical matter i.e. Original Application No.207 of 2023 (WZ), same prayer has been made and the said O.A. is pending before this Tribunal, in which a report has already been submitted and therefore, we had directed that the said O.A. No.207/2023 also be placed before us along with the present O.A. today, which has been placed. We find that in O.A. No.207/2023, the report dated 25.07.2024 has been submitted by the MPCB, wherein following has been mentioned :

“3. In compliance of the order dated 2/12/2023 passed by this Hon’ble NGT, the Report of the Respondent – MPCB is as under:

- i) Respondent – MPCB has granted Consent to Establish to M/s N.N. Enterprises located at Survey No.92/1, 92/2, 92/3 and 92/4, CTS No.1490, village Eksar North off Link Road, Borivali (West), Mumbai on 8/9/2020 for manufacture of Ready Mix Concrete (Captive purpose only for Metro Project) which was valid upto commissioning of the plant or five years, whichever is earlier. A copy of the Consent to Establish dated 8/9/2020 is annexed herewith as an **Annexure-I**.*
- ii) Respondent-MPCB had granted Consent to Operate vide letter dated 10/6/2021 to M/s N.N. Enterprises for manufacture of Ready-Mix Concrete (Captive purpose for metro project only) for 08 M³/Month valid for a period upto 31/5/2024 on certain terms and conditions. A copy of the Consent to Operate dated 10/6/2021 is annexed herewith as an **Annexure-II**.*
- iii) Respondent-MPCB has received a complaint dated 25/10/2023 from the Corner Co-operative Housing Society Ltd, CTS No.1491/A/1 to 4, Devki Nagar, Borivali (W) i.e. the applicant regarding air pollution nuisance created by the aforesaid RMC plant and MCGM clean up dumper trucks parked in open area at Link road, Borivali.*

- iv) *In order to verify the aforesaid complaint, the official of the Respondent – MPCB at Mumbai visited to the aforesaid RMC plant on 3/11/2023 and observed that the RMC plant has not provided water sprinkling system along the periphery of the premises, inadequate dust collection system to 4 nos of silo and needs all silos dumper proof mechanism to avoid leakage of vacuum, failed to provide roof top sprinklers at storage area of sand and stone/aggregates etc. The Ambient Air Quality Monitoring carried out on 3/11/2023 for 24 hrs revealed that the ambient levels are marginally exceeding the National Ambient Air Quality Standards for parameter PM₁₀.*

*In view of the above non-compliances, the Respondent-MPCB issued Proposed Directions to M/s N.N. Enterprises vide letter dated 10/11/2023 with a direction to remain present for personal hearing. A copy of the Proposed Directions dated 10/11/2023 is annexed herewith as an **Annexure-III**.*

- v) *The Respondent – MPCB vide letter dated 24/11/2023 had communicated the aforesaid complaint to the Municipal Corporation of Greater Mumbai for necessary action with a copy to the Police Inspector, Borivali Police Station, to initiate appropriate action against illegal BMC 'Clean Up' vehicles being parked and creating nuisance to nearby residents and requested to send Action Taken Report to the complainant directly.*
- vi) *On the basis of personal hearing extended on 1/12/2023, the Respondent – MPCB has issued Directions to M/s N.N. Enterprises vide letter dated 1/12/2023 with directions to operate pollution control system continuously and efficiently to achieve the consented norms, to close sand and stone aggregate transfer hopper, to provide fogger system within 7 days, to maintain & operate dust collector and bag filter regularly, further Bank Guarantee of Rs.50,000/- was forfeited for non-compliance of Consent conditions with directions to submit fresh Bank guarantee of Rs.1,00,000/- towards compliance of the same etc. A copy of the directions dated 1/12/2023 is annexed herewith as an **Annexure-IV**.*
- vii) *The Respondent-MPCB vide letter dated 11/12/2023 has communicated about the action initiated by the Board against M/s N.N. Enterprises to the Corner Co-operative Housing Society Ltd. i.e. the Applicant with a copy to the Police Inspector, Borivali*

Police Station to initiate appropriate action against illegal BMC 'Clean Up' vehicles being parked and creating nuisance to the nearby residents.

viii) The MCGM vide letter dated 23/3/2024 communicated MPCB that as per their Guidelines for Prevention of Air Pollution, they have issued stop work order to M/s N.N. Enterprises and accordingly, they have stopped activities of RMC Plant.

4. The official of the Respondent-MPCB at Mumbai visited M/s N.N. Enterprises, Borivali (West), Mumbai on 28/6/2024 and observed as under:

- i) Presently the RMC plant was not found in operation since November, 2023 as informed by the representative on telephonic discussion. No responsible person was present at the site.*
- ii) The RMC plant had provided Sedimentation tank for treatment of generated effluent.*
- iii) All the transfer points and conveyor belt were found covered. Barricading of tin sheet having 20 feet height is provided at all sides.*
- iv) Water sprinkling arrangement is provided in the premises. Provided cement concrete area in RMC premises and also provided closed shed for raw material storage with roof top water sprinkling arrangement. A copy of the visit report dated 28/6/2024 is annexed herewith as an **Annexure-V.**"*

3. From the above report, it is apparent that M/s N.N. Enterprises was found involved in manufacturing of ready-mix concrete, which has been granted Consent to Establish (CTE) on 08.09.2020 and Consent to Operate (CTO) on 10.06.2021, which expired on 31.05.2024 and thereafter, no renewal was sought by M/s N.N. Enterprises. It is evident that several violations were noticed, for which directions were issued from time to time and the said Industry was directed to be closed down vide letter dated 01.12.2023 and bank guarantee to the tune of Rs.50,000/- was forfeited for non-compliance of Consent conditions and the Industry was further directed to submit fresh bank guarantee of Rs.1,00,000/- for compliance and finally it is submitted in the said report that the stop-work order was

issued by the MCGM as informed by them vide letter dated 23.03.2024 written to MPCB and the activities of RMC plant of M/s N.N. Enterprises have been stopped.

4. We find that the period of past violations for which they remained non-compliant has not been given in the aforesaid affidavit by the MPCB. Therefore, we direct MPCB to calculate the said period of past violations and accordingly, EDC to be levied from the said RMC Plant/Unit, shall be calculated. Details of the calculation of past violations for which the said Industry remained non-compliant and the amount of EDC shall be submitted by the MPCB before us by way of an affidavit before the next date.

5. We find that that M/s N.N. Enterprises not being impleaded as respondent in this O.A. i.e. O.A. No.191/2024, we direct the Registry to implead the said Industry as respondent No.3 in O.A. No.191/2024 today only and issue them notice to file the reply within four weeks. A copy of the report dated 25.07.2024 filed by the MPCB in O.A. No.207/2023 shall also be served upon the said Industry – M/s N.N. Enterprises because we treat it to have been filed in O.A. No.191/2024. Copy of the said report of MPCB shall also be served on the applicant in both O.As.

6. Put up these matters on 31.01.2025.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 26, 2024

ORIGINAL APPLICATION NOs.191/2024 and 207/2023(WZ)

npj