**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**

The Member Secretary, Maharashtra Pollution Control Board & Ors. … **Respondents**

**WITH**

**ORIGINAL APPLICATION NO.207 OF 2023 (WZ)**

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

**Versus**

The Member Secretary, Maharashtra Pollution Control Board & Ors. … **Respondents**

Date of Hearing : 29.04.2025

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

Applicants : None for applicant in O.A. No.191/2024
Ms. Yamuna Parekh, Advocate for applicant in O.A.NO.207/2023

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1/MPCB in both OAs
Ms. Swati B. Vaidya, Advocate for R-2/District Collector in O.A. No.191/2024

**ORDER**

1. None has appeared from the side of the applicant in O.A. No.191/2024 (WZ), although in connected O.A. NO.207/2023 (WZ), learned counsel Ms. Yamuna Parekh has appeared for the applicant.

2. This order is being passed in continuation of our previous order dated 02.04.2025, whereby we had directed respondent No.1 – MPCB to disclose as to how, in case any Environmental Damage Compensation (EDC) is directed to be levied from M/s N.N. Enterprises (respondent No.3 in O.A. NO.191/2024 and respondent No.2 in O.A. No.207/.2023), on whose behalf, none has appeared, would be realized. No such clarification

is given from the side of MPCB so far. The details of EDC calculation, period of violation and violation of Consent conditions have been given in Para Nos. (I) and (II) of the additional affidavit dated 25.04.2025 filed by the MPCB in O.A. No.191/2024, which are as follows:

(I) **The details of EDC Calculation:**

In compliance of this Hon'ble NGT order dated 26/11/2024, the Respondent-Board had assessed the environment compensation against M/s.N.N. Enterprises (RMC Plant) (i.e. Project Proponent) located at S.No.92/1, 92/2,92/3 & 92/4, CTS No.1490, village Eksar North, Opp Link Road, Borivli (West), Mumbai, for the violation period (from 31/08/2021 to 12/11/2021 and between 03/04/2023 to 28/6/2024) to the tune of Rs.39,37,500/- (Thirty Nine Lakhs, Thirty Seven Thousand and Five Hundred Rupees only) . The details of the calculation of past violation period are as follows:

a) **Violation period from 31/08/2021 to 12/11/2021:-**

The officials of the Respondent -Board at Mumbai-IV have visited the site of the aforesaid RMC plant on 31/08/2021. During the visit, it was observed that the Conveyor belts were partially covered, vacuum cleaner was not provided and failed to submit Bank Guarantee. In view of the said non-compliances, the Respondent-Board had issued Proposed directions to M/s.N.N.Enterprises on 30/09/2021. A copy of the Proposed Directions dated 30/09/2021 is annexed herewith as an **Exhibit-'I'**.

b) In order to verify the compliance of the directions, the official of the Respondent-Board at Mumbai visited the aforesaid site of RMC plant on 12/11/2021 and observed that the said RMC plant had complied i.e. they had provided Conveyor belt fully covered with tin sheets, Dust collection system, Silos covered with green nets, Water Sprinkling System, Fogger system. Two level of tyre washing system were provided for transit mixture vehicle. All Air Pollution Control systems were found in operation and submitted Bank Guarantee as per Consent conditions. A copy of the visit report dated 12/11/2021 is annexed herewith as an **Exhibit-'II'.**

c) **Violation period -03/04/2023 to 28/06/2024**: The official of the Respondent-Board visited the above RMC plant on 03/04/2023 and observed that the said RMC plant was sending RMC to other private parties in addition to Metro works.

Production quantities were exceeding the consented quantity. Two level tyre washing system needed upgradation. The conveyor belt was fully covered with sheets but broken at various places. RMC plant was disposing mud debris outside their premises. On the basis of said non-compliances, the Respondent Board has issued Proposed Directions vide letter dated 13/6/2023. Thereafter, in order verify the compliance, the Official of the Respondent Board at Mumbai visited to the above site on 31/10/2023 and 3/11/2023. On the basis of non-compliances observed during the said visits, the Respondent Board has issued Proposed Directions vide letter dated 10/11/2023 and directed M/s.N.N. Enterprises to remain present for the personal hearing. A copy of the Proposed Directions dated 10/11/2023 is annexed to the Report dated 25/07/2024 filed by the Respondent Boad as an Annexure-III.

Further on the basis of personal hearing held on 01/12/2023, the Respondent-Board had issued directions to M/s.N.N.Enterprises vide letter dated 01/12/2023, which is annexed to the Report dated 25/07/2024 filed by the Respondent Boad as an Annexure-IV.

d) **RMC Plant found non-operational**:

During the visit of the official of the Respondent-Board at Mumbai on 28/06/2024, the said RMC plant was found non-operational (Plant permanently shut down).

The period of violations observed by the Respondent -Board during their visit to RMC plant was from 31/08/2021 to 12/11/2021 and between 03/04/2023 to 28/06/2024.

e) **Formula for assessment of Environment Compensation:**

As per methodology of Central Pollution Control Board approved by the Hon'ble NGT in Original Application No.593/2017 filed by Paryavaran Suraksha Samiti Vs Union of India & Ors dated 28/09/2019, the Environment Compensation was calculated as per below formula:

EC = PI x N x R x S x LF

EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

Basis:

PI= 30 (Green category industry- as per earlier categorization)

N= 525 days {Period calculated - 31/08/2021 to 12/11/2021 (73 days) + period 03/04/2023 to 28/06/2024 (452 days)

R= 250 (Rupee factor)

S= 0.5 (small scale industry)

LF= 2 (population above 10 million)

EC= 30 x 525 x 250 x 0.50 x 2= 39,37,500/-

Environment Compensation = Rs.39,37,500/- (Thirty nine lakhs , Thirty Seven Thousand and Five hundred rupees only).

**(II) Violation of Consent Conditions:**

The Respondent Board had granted Consent to Operate to M/S.N.N. Enterprises on 10/06/2021 for manufacture of ready-mix concrete (Captive Purpose for Metro Project only), which was valid upto 31/05/2024. A Copy of the Consent to Operate dated 10/06/2021 is annexed to the Report dated 25/07/2024 filed by the Respondent Board as an Annexure-II.

The violations of consent conditions observed by the Official of Respondent Board Mumbai during visits on 31/10/2023 and 03/11/2023 are as under :-

i. The Project Proponent (PP) had not provided water sprinkling system along the periphery of the premises and aggregate storage area, but water sprinkling is done manually.

ii. The PP had provided single dust collector to 4 Nos. of silo which seems inadequate.

iii. Single dust collector to four silo's needs damper proof mechanism to avoid leakage of vacuum.

iv. The sand and stone aggregate transfer hopper found open without the provision of APC system thereby dust emissions observed in nearby vicinity.

v. The PP has not provided dust collector mechanism at transfer point, so dust emission observed. PP has not provided dust collection mechanism to Mixing section as well.

vi. Dust found accumulated in front side of raw material storage area (Indicating no periodic cleaning).

vii. The sedimentation tank was full of waste-water. PP has not provided proper drainage system to channelize waste-water from batch mixing section to sedimentation tank, waste-water spillages seen under mining plant.

viii. Concrete Muck /sludge found stored at site. Disposal records were not available at the time of the visit.

ix. Overall housekeeping needs to be improved to control dust emission.

3. It is apparent from the above affidavit that there does not appear any error in the amount of calculation of EDC to be levied from respondent No. 3 – M/s N.N. Enterprises, particularly in view of the fact that none has appeared from the side of M/s N.N. Enterprises to controvert this calculation of EDC. Therefore, we are convinced that this amount has to be recovered from respondent No.3 – M/s N.N. Enterprises. We direct respondent No.1 – MPCB to levy the said amount of EDC from M/s N.N. Enterprises (respondent No.3 in O.A. No.191/2024 and respondent No.2 in O.A. NO.207/2023) within a period of two months from the date of uploading of this order. A compliance report in that regard shall be submitted by MPCB to the Registry of this Tribunal for being placed before us.

4. With the above directions, both these Original Applications are disposed of.

5. No order as to costs.

**Dinesh Kumar Singh, JM**

**Dr. Vijay Kulkarni, EM**

April 29, 2025
ORIGINAL APPLICATION NOs.191/2024 and 207/2023(WZ)
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