

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

M.A. No. 103/2015 (WZ)  
(Atra Pharmaceutical Ltd.)

IN

M.A. No. 145/2014 (WZ)  
(Disposed of 24.09.2014)

AND

M.A. No. 215/2015 (WZ)  
(Bajaj Auto Ltd.)

AND

M.A. No. 218/2015 (WZ)  
(Wockhardt Ltd.)

AND

M.A. No. 219/2015 (WZ)  
(Wockhardt Ltd.)

IN

Application No. 11(THC)/2013  
(Disposed of 24.09.2014)

Rabhunath S/o Rakhamji Lokhane Vs. MPWPB & Ors.  
AND

Application No. 11(THC)/2013  
(Disposed of 24.09.2014)

Rabhunath S/o Rakhamji Lokhane Vs. MPWPB & Ors.

**CORAM: HON'BLE MR JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER  
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

**Present: In Appl. 11(THC)/2013**

**Applicant/Appellant** : Mr. Pinaki Misra, Sr. Adv.  
Mr. Joy Basu, Sr. Adv.  
Mr. Prateek Kumar, Adv.  
Mr. Sandeepak Phadke, Adv. &  
Mrs. Anushka Sharda, Adv.

**Respondent No. 6,9 to** : Mr. V.R. Joshi, Adv.  
**11, 14, 16 to 20**

**Applicant/Appellant** : Mr. R.B. Mahabal, Adv.  
(In M.A. No. 103/2015)

**Respondent No. 1 to 4** : Mrs. Supriya Dangare, Adv.  
(In M.A. No. 103/2015)

**Applicant/Appellant** : Mr. Saurabh Kulkarni, Adv.  
(M.A 215/15, 218/15 & 219/15)

**Respondent No. 14** : Mr. Gaurav Joshi, Adv. &  
Mrs. Manashi Nandu, Adv.

**Respondent No. 21** : Mr. Gaurav Joshi, Adv. &  
Mr. Arush Upmanyu, Adv.

**Respondent No.** : Mrs. Shrilekha P. Golekar, Adv.  
(In M.A. 145/14)

| Date and Remarks   | Orders of the Tribunal  |
|--|---|
| Item No.13 to 16& Supplementary Item No. 1 23 <sup>rd</sup> November, 2015 Order No. | <p align="center"><u><b>In Application No. 11(THC)/2013</b></u></p> <p>Heard.</p> <p>The monitoring of outlet samples and all the data about performance of CETP is not yet submitted by the MPCB. It requires appropriate analytical and due assessment of the MPCB, in so far as the affidavit of MIDC goes on to show that the CETP authorities have collected substantial amount in terms of penalty/additional charge to</p> |

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industries who are discharging high COD effluents to CETP and it is observed that there are many effluent generating industries who have not become member of CETP, though there is some improvement in quantity of effluent reaching CETP. Learned counsel for industry respondents submits that many effluent generating small scale industries are not members of CETP. MPCB shall give clear picture about all issues related to CETP within period of 4 (four) weeks.

The industries are directed to deposit the amount as per the order dated 23<sup>rd</sup> January, 2014. They shall comply and deposit the amount within 3 (three) weeks and in case it is not deposited within the given time frame, the Collector shall take coercive measures to recover the amount from the defaulting industry. The industries which have filed Misc. Application for stay or any other interim order may treat, their request is rejected and will be considered only after depositing the amount because even after depositing the amount, a refund can be claimed, if no liability is fixed against a particular industry. Liberty to claim refund is granted.

**In M.A. No. 103/2015**

Adv. R.B. Mahabal submits that the industry is formulation unit in Orange category and, therefore, not in the category of highly polluting industry. He would submit that no leakage or discharge of pollutants identified by MS university like Nickel, Chromium or VOC is found at the outlet of the Applicant. He submits that when the Applicant started the industry in 1995, it was a small scale unit only for formulation, manufacturing of tablets and encapsulating of medical power. Therefore, he did not require any process which could make it a polluting unit. According to him, the Applicant is not a unit which generated any kind of identified pollutant and, therefore, heavy amount could not be recovered from it even for remedial purposes or other purposes.

Per contra, Advocate Shri Raghuvanshi would point out that the contamination of water from the Applicant's industry is found to be much more in 2010 and for subsequent period also. He would submit that presence of any metal or other pollutants may or may not be located subsequently but while dealing with a case of ground water contamination, the concentration of contaminated water for years together will be of much significant.

We find that it will be premature to decide the issue regarding responsibility of the Applicant to contribute for the remedial issue. Yet, the Applicant cannot be totally exonerated at this juncture, and will have to deposit at least an amount of Rs. 2,000,0000/- (two crores) in

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the escrow account of the Collector Office, Aurangabad within period of 4 (four) weeks. This amount shall not be deemed as penalty, nor it shall be utilised by any of the party or Collector for any purpose, including remedial purpose and will be subjected to final outcome of order passed in main Application No. 11/2013. The direction to deposit such amount could not be taken as stigmatic. At request of Advocate Mr. R.B. Mahabal, Applicant is permitted to furnish Bank guarantee of half of amount and pay rest of amount in the escrow account of the Collector.

We have taken a judicial note that MPCB was specifically asked to submit a ground water remediation plan and also, proportionate costs to be contributed by the identified industries, by directions given in Judgement dated 24<sup>th</sup> July, 2014 in Original Application No. 11/2013. MPCB has not submitted compliance of such directions in spite of the substantial delay over the specified time. We therefore direct that Chairman/ Member Secretary MPCB shall ensure the compliance of these directions and detailed affidavit on compliance of directions shall be submitted within period of 4 (four) weeks, before scheduled date, to avoid further actions.

**M.A. No. 103/2015 stands disposed of.**

Main Application and other Misc. Applications **Stand Over to 23<sup>rd</sup> December, 2015.**

....., **JM**  
**(Justice V. R. Kingaonkar)**

....., **EM**  
**(Dr.Ajay A. Deshpande)**