

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

Original Application No. 125/2018
(Earlier O. A. No. 163/2017 (WZ)
(I.A. No.209/2019, M.A. No.99/2019 & M.A. No. 103/2019)

Arvind Pundalik Mhatre

Applicant(s)

Versus

Ministry of Environment and Forest &
Climate Change & Ors.

Respondent(s)

Date of hearing: 09.04.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):
Mr.

Dr. Sudhakar E. Avnad, Mr. Arvind S. Avnad,
Chetan R. Nagare and Mr. Lalit Moham,
Advocates

For Respondent (s):

Mr. Mukesh Verma, Advocate for MPCB
Mr. Raj Panjwani, Senior Advocate with Mr.
Saurabh Kulkarni, Advocate for R-11
Mr. Guruprasad Pal, Mr. Shyamali Gadre,
Advocates Mr. Ramni Taneja a/w S.B. Patil &
Deepak Bobde, Dy. Engineer for R-6&7

ORDER

1. The matter pertains to pollution of river Kasardi on account of discharge of industrial effluents in Taloja industrial area on the outskirts of Mumbai.
2. In pursuance of order of this Tribunal dated 24.11.2017, a joint inspection was conducted by the Central Pollution Control Board (CPCB) and Maharashtra Pollution Control Board (MPCB) and a report dated 02.01.2018 was filed which was considered by the

Tribunal on 04.04.2018. The report found that CETP was functioning and was managed by Taloja CETP Co-operative Society Limited since 2013. CETP was not properly maintained. This was resulting in untreated industrial effluents being discharged in the water body causing damage to the eco-system and the health of the inhabitants as the said water was being used for drinking purpose also. The Tribunal, directed stopping of polluting discharge by the Taloja CETP Co-operative Society Limited. The society was required to deposit a sum of Rs. 5 Crores with the District Magistrate. The State Pollution Control Board (SPCB) was directed to conduct further inspection and suggest a road map in the matter.

3. The matter was again considered on 11.05.2018. Since CETP was still not functioning, SPCB was directed to shut down the erring industries. 18 industries were shut down and show cause notices were given to others, as recorded in the order of this Tribunal dated 31.05.2018. The problem, however, continued.

4. As per order dated 11.07.2018, the Tribunal noted the report that there was huge accumulation of sludge. The CETP was required to be repaired on account of several defects. 92 industries to which show cause notice was issued were also closed. The society was required to deposit the amount of Rs. 5 Crores as earlier directed in view of discharge of polluting effluents for the last five years. It was noted that the industries operating in the area had turnover of Rs. 6,000 Crore annually and could provide for resources to check pollution.

5. On 17.08.2018, the matter was again reviewed by the Tribunal in the light of report of the joint inspection by CPCB and MPCB dated 31.07.2018. The report concluded as follows:

“CONCLUSION AND RECOMMENDATIONS:

Due to closure directions and show cause directions from MPCB to member units 195 out of total effluent generating industrial units in the MIDC are discharging effluent to CETP. Thus, CETP is receiving controlled flow and concentration load in terms of COD and BOD. In spite of that CETP is not able to meet the norms. In full capacity the situation may be much worse. It can be inferred that the inlet condition is temporarily controlled due to closure directions of units. The inlet concentration though well within the design parameters of CETP except pH (acidic range) and Ammonical Nitrogen. The overall reduction of about 22% in the concentration of COD, from inlet to final outlet, indicates poor performance of CETP.

The CETP has not yet started implementing most of the recommendations made by the joint team of Central Pollution Control Board and MPCB during earlier visit. The only work of de-sludging from the collection tank near distribution chamber has been initiated. The de-sludging activity, handling storage of sludge was not found satisfactory. No proper records for the sludge removal and disposal are maintained by the CETP.

The diffused aeration system was not found adequate in terms of physical condition and performance.

The sludge dewatering, handling and storage system practiced by CETP found to be unsatisfactory as the SDBs of phase-II is not provided with leachate collection and transfer system. SDBs of Phase-I having leachate collection tank and flexible pipes are reportedly used for transfer of leachate to aeration tank. However, proper and fixed transfer system of leachate to equalization tank needs to be provided for both the phase. The decanter installed at the phase-II was not working.

Civil structure, railing of collection tank, aeration tank was found damaged and needs improvement.

The OCEMS and flow meter installed by the CETP at the inlet and outlet was not operational during visit as sensors were observed submerged in the sludge and proper working of sensor in such condition is technically not possible. Leakages from sludge transfer pump, glad leakage, accumulation of acidic wastewater near sludge drying beds of phase-II,

storage of sludge on open land adjacent to sludge drying bed near collection tank and overall housekeeping shows negligent approach.

The final outlet sample collected from CETP significantly exceeds MPCB discharge standards for the concentration of TSS, FDS, COD, BOD, NH₃-N, TKN, phenols, PO₄-P, Cl, S₂, CN, Fe and Pb.

MIDC has to provide the final disposal point in the deep sea as suggested by NIO. MIDC also need to repair and maintain the leakage in the discharge pipeline.

It is therefore concluded that the CETP has not taken sincere efforts for execution of recommendations given in the earlier reports submitted to Hon'ble NGT. MPCB is in the opinion that change of the management committee of CETP, administration of Registrar of Societies to newly elected committee are the reason for the same. Thus, CETP continue to violate the MPCB discharge norms.

It is recommended that CETP should devise systematic time bound approach to address the issues starting from the very first step of treatment scheme to the end. The CETP management is required to revisit the recommendations made in earlier as well as in present reports and also to integrate efforts as stakeholders to implement them without further delay.”

6. The Tribunal noted that severe pollution which was being caused which was required to be remedied and penal action was required to be taken against the polluters. The Tribunal directed the MPCB to take further action to restore the damage caused and to prevent further pollution. The amount of compensation required to be deposited was increased to Rs. 10 Crores. In view of magnitude of the problem and repeated failure on the part of the regulatory authorities, the Tribunal constituted a Monitoring Committee to execute the directions of this Tribunal to be headed by Justice V.M. Kanade, former Judge of Bombay High Court. The Committee was to take stock of the action so far taken and to propose a time bound action plan. The Tribunal also directed that online mechanism for

monitoring the performance of individual ETPs and CETP should be connected to the servers of the CPCB and the SPCBs. The Committee was to prepare action plan within one month. A joint Inspection Committee comprising the CPCB and the MPCB was to submit its report at the earliest.

7. Almost eight months have passed since the last order was passed. We have taken up the matter today for further review. We find from the record that two appraisal reports have been received from Justice V.M. Kanade. The first appraisal report was received vide e-mail dated 11.12.2018 to the effect that meetings were held on 05.09.2018, 21.09.2018 and 19.11.2018 and an action plan with timelines was prepared. The report concludes as follows:

“It may be concluded that the performance of CETP has further degraded. Neither effective control on member units for effluent quality has been achieved, nor has effective improved operation of CETP been achieved. No serious thought is given towards achievements of commitments made by stakeholders as well as implementation & compliance of action framework submitted by the Committee. Stakeholders have not even given any thought for submission of status reports to the committee. The effluent being discharged by CETP has great potential to cause damage to the environment with continuous gross violation of norms. The Committee has decided to call a meeting of stakeholders in the third week of December, 2018 for review.”

8. MPCB filed affidavit dated 11.12.2018 referring to the minutes of the Committee and the action plan prepared. It was stated that further work was in process.
9. The second appraisal report dated February 2019 has been filed by the SPCB before this Tribunal on 05.03.2019. The report mentions that the timelines for taking steps were reviewed in the meeting held on 21.12.2018 and it was found that the action plan had not been

implemented, as proposed. There was further review on 21.02.2019

which has been summarized as follows:

- “• *Repair and maintenance work of Phase-2 of CETP is still in progress and Phse1 of CETP is kept operational which shall be taken up for cleaning, maintenance & repair after completion of works of Phase-2. Surveillance monitoring of member units has been started and increased by CETP and MPCB.*
- *The entire work of CETP was reportedly planned in step wise manner for completion by consultant/contractors engaged by MIDC. It is worth to mention that Managing Committee of Taloja CETP and member industries decided to handover works of O & M of Taloja CETP and expansion project to MIDC. The first step comprising of cleaning, repair, and maintenance of Phase-2 of CETP was to be completed by end of January, 2019 while Phase-1 of CETP is kept in operation. However, the works of Phase 2 of CETP is still not completed, as the CETP is facing some problem with integration of other works and power supply line. Surprisingly, these problems were not envisaged at the planning stage by consultants of CETP.*
- *The cleaning, repair, and maintenance of phase-1 of CETP is to be taken-up after completion of works of Phase-2. The reported target date of completion of works of Phase-1 of CETP is end of April, 2019. However, the works of Phase 2 is yet to be completed and Phase 1 is yet to be started.*
- *Neither the target dates given in action framework are complied, nor are the target dates committed during previous meeting of the committee complied by the CETP for execution of the works of Phase 1 & 2 of CETP. It is gathered during meeting on 21.02.2019 that CETP & MIDC is still not in a position to give the expected date of completion of works of Phase 1 & 2 of CETP.*
- *In an effort to control at source of effluent, it was introduced for member industrial units to dispose effluent through pumping for positive discharge with lock & key arrangement so that deposition of suspended solids in lines and in CETP can be prevented. Maximum 02 months' time was given by the committee for completion of works during last meeting dated 21.12.2018. However so far only 92 out of 371 units are connected.*
- *Consent of CETP is pending for renewal and the CETP is operating without valid consent.*
- *It has been observed by the committee that actions and target dates are arbitrarily changed by the stakeholders without any intimation to the committee or Hon'ble NGT. Action points given in action framework, target date and status (available with committee as on 26.02.2019) are summarized in the following table:*

S. No.	Action	Responsible Agency	Target Date	Remarks
1	To arrange awareness programme for member units regarding effluent	TMA & CETP	10th Nov, 2018	TMA arranged on 27th December, 2018 and CETP

	treatment management			arranged on 09th January, 2019. One more is proposed by TMA on 26th February, 2019.
2	To prepare inventory of the member units in the given format and display on the TMA & CETP website	TMA	31 st Oct, 2018	Still in progress. Taking much more time than actually required.
3	To examine above inventory (S. No. 2) regarding adequacy of the treatment facilities and characteristics of effluent reported	Technical Committee	15 th Nov, 2018	Pending. Progress not reported.
4	To prepare separate plan for development of appropriate treatment & disposal facility to the individual units with high COD and/or high Ammonical Nitrogen (NH ₃ -N) concentration	TMA & CETP with expert institution/agency	30 th Nov, 2018	Units with high COD have been identified by MPCB. However, action with respect to identification of units with high Ammonical Nitrogen content is not initiated. No progress reported by CETP.
5	Opportunity for selfdeclaration by individual units with high COD and/or high Ammonical Nitrogen. (NH ₃ -N) concentration streams.	TMA & CETP	31 st Oct, 2018	Progress not reported.
6	All member units to embrace for adequate pretreatment/treatment facility for effluent	All member units	01 st Dec, 2018	Pending as CETP is still receiving effluent with higher concentration.
7	To review/assess no effluent generation by 753 non-effluent generating units of the MIDC	TMA & CETP	30 th Apr, 2019	Progress not reported.
8	To remove sludge from all the treatment units of CETP	CETP	10 th Nov, 2018	Huge quantity of sludge has been and disposed and work still in progress. Works of Phase-1 of CETP is yet to be started.
9	To replace/repair of pumps, flanges, leaking pipes & aeration system, clarifiers, decanters etc.	CETP	15 th Nov, 2018	Work still in progress. Concrete updated information not provided. CETP is not in a position to give expected date of completion.
10	To check development of laboratory and skilled manpower for analyzing different parameters	MIDC & CETP management	30 th Nov, 2018	Completed but concrete information in the form of report not provided.
11	To remove sludge from the existing collection sumps and disposal as	MIDC	10 th Nov, 2018	Progress not reported.

	suggested by MPCB			
12	To extend effluent disposal pipeline with diffuser system up to the point suggested by NIO.	MIDC	Nov, 2019	Progress not reported.
13	To display SOPs for repair & maintenance of pipelines, cleaning of sumps and timelines for extension of pipelines on website.	MIDC	15th Nov, 2018	Progress not reported.
14	To check default by member units while sending effluent to CETP and place on website	TMA & CETP	30th Nov, 2018	Action initiated. Better coordination required among CETP, MIDC and MPCB.
15	To submit graphical presentation of daily average concentration values of effluent received and treated effluent disposed to the committee and display on website	CETP	7th day of every month	Analysis results and graphical presentation not submitted. Progress not reported.
16	To strengthen the manpower and infrastructure facilities of the regional and subregional office and place on website and streamline issues of consent management	MPCB	31 st Dec, 2018	Field officers are posted. No shortage of manpower reported by the Regional Officer of MPCB to the committee.
17	To place the list of units found with status of compliance or noncompliance with respect to effluent discharge on website	MPCB	15th day of every month	MPCB has reportedly issued 70 closure directions, 82 proposed directions and 109 show cause notices to the member industries during the period from 01.01.2018 to 20.02.2019.
18	To check the register containing daily records of hours of operation, power consumed, effluent treated, effluent reused, salt generation etc. in ZLD units	TMA & CETP	Once in a month (1 st Dec, 2018 onwards)	Apparently not initiated. Progress not reported.
19	To prepare the action points with time in a tabular form and submit the action taken/status report to the members of the committee.	All the stakeholders	15th day of every month (15th Nov, 2018 onwards)	Progress not reported.

10. The summary in the second appraisal report is as follows:

“SUMMARY

The committee suggested multipronged approach in action framework with more focus and stress upon cleaning, repair & maintenance of CETP and control on pretreatment by member units. Accordingly, following actions have been initiated by CETP:

- CETP has taken-up shut down of Phase-2 (10 MLD) plant from 17.11.2018 for cleaning, repair and maintenance. Phse-1 is kept in operation and to be taken-up subsequently for similar cleaning, repair and maintenance.
- Huge amount of sludge has been removed from treatment units of CETP. Total 2235.66 MT of sludge is disposed during period from 21.11.2018 to 28.11.2018. Subsequently, 178.920 MT and 217.050 MT of sludge is disposed in common HWTSDF of Taloja on 31.01.2019 and 01.02.2019- respectively.
- CETP has arranged awareness programme for member units in compliance of the action framework.
- CETP has started monitoring of discharge of member industrial units.

Taloja Manufacturers' Association (TMA) has taken following actions to address the action points given in framework:

- TMA organized awareness prorgamme for member units on 27th December, 2018.
- TMA is organizing one more awareness programme for member units in association with MPCB and MIDC on 26th February, 2019.
- TMA is working on inventorization of the member units as per format prescribed in the action framework.

MPCB has taken following steps to address action points suggested:

- Increased surveillance activities in the area and actions including closure, show cause directions have been taken against defaulter units besides directions for curtailment in water consumption and installation of online monitoring systems.
- The MPCB has reportedly filed prosecution against CETP before Hon'ble CAD, Panvel on 13.12.2018 for non-compliance.

The initiatives of committee has resulted in several steps and drastic reduction in concentration values in effluent at outlet of CETP, specially observed after December, 2018 but values are still much higher than standard limits. The pace of physical works related with cleaning, maintenance and repair of CETP is not satisfactory. Actions and target dates are arbitrarily changed by the stakeholders without any intimation to the committee or Hon'ble NGT for which committee has expressed dissatisfaction during last meeting with stakeholders. Adequate focus is not given by the stakeholders in recording and reporting of results of key parameters in the CETP namely flow, ammonical nitrogen and phenolic compounds. Attention has not been paid by stakeholders for regular submission of progress reports to the committee as reflected in Table given on page 5-8 above.

CETP office has been observed very casual towards regular submission of status reports to the committee as prescribed in the framework. Office bearers of CETP failed to attend the meeting of the committee held on 21.02.2019. CETP has still reportedly not deposited balance amount of Rs Five Crore in compliance of the order passed by Hon'ble NGT in the matter. As the works of cleaning, repair and maintenance of CETP has been taken-up by MIDC, MIDC also shares responsibility of timely sharing of progress and compliance reports.”

11. We have heard learned Counsel for the applicant. He submitted that in spite of repeated directions, CETP is not functioning and pollution is continuing. Only option before this Tribunal, to prevent pollution, is to permit only such industries to function which have stand alone ETPs which are fully complying with the norms or the industries which switch over to ZLD. Any industry not connected to CETP and not having its own satisfactory ETP or the industries which are connected to the CETP but not meeting the norms or till CETP meets the norms, must be closed.

12. Learned Counsel appearing on behalf of the Maharashtra Industrial Development Corporation (MIDC) has filed an affidavit on behalf of the MIDC to the effect that management of CETP has been taken over by the MIDC in pursuance of consent of the Taloja CETP Co-operative Society Limited as per resolution dated 13.10.2018. MIDC is to upgrade and expand CETP. It started its first phase from 01.11.2018 and Phase-II is under maintenance which will be completed in May 2019. Thereafter, Phase-I will be in maintenance. The action taken is as follows:

Sr. No.	Action	Responsible Agency	Target date	Remarks of Monitoring committee.	Action Taken by MIDC.	Revised Target dates
8	To remove sludge from all the treatment	CETP / MIDC	10 th Nov 2018	Huge quantity of sludge has been removed and disposed and work still	1) After taking over of work, it is seen that, the sludge from treatment units	Work Completed.

	units of CETP			in progress. Works of Phase-1 of CETP is yet to be started.	<p>was not removed since long back. There was about 2 to 3mts of sludge in each tanks. The sludge from all the treatment units of Phase-2 is removed. Uptill now 2900MT of sludge is disposed.</p> <p>2) After commissioning of Phase-2, the Phase-1 of CETP rehabilitation & Up-gradation work will be started and sludge will be removed and entire work of Rehabilitation & Up-gradation will be also completed.</p>	
9.	To replace /repair of pumps, flanges, leaking pipes & aeration system, clarifiers decanters etc.	CETP / MIDC	15th Nov 2018	Work still in progress. Concrete updated information not provided. CETP is not in a position to give expected date of completion.	<p>1) In phase II CETP, the desludging & cleaning of all tanks is completed. Civil repairs are also completed to the tune of 95%. Internal modifications of Aeration tank, secondary clarifier is in progress. New mechanical equipment are being procure.</p> <p>2) MIDC has also carried out repairs of existing pumps, decanter of pahse1 unit is carried out and made in operation. Additional diffusers are provided in aeration tank to improve aeration.</p>	<p>Rehabilitation & Upgradation work is in full swing & will be completed by 30/05/2019.</p> <p>CETP phase I is in operation & it is proposed to undertake rehabilitation & Upgradation work in hand after completion of work of Phase II</p>

						CETP & will be completed by 30/08/2019.
10.	To check development of laboratory and skilled manpower for analysing different parameters.	MIDC & CETP management	30th Nov 2018	Completed but concrete information in the form of report not provided.	All equipment of laboratory are replaced with new equipment. The manpower is trained and having experience of 8 to 15 years. The List of equipment provided is attached herewith.	Work Completed.
11	To remove sludge from the existing collection sumps and disposal as suggested by MPCB	MIDC	10 th Nov 2018	Progress not reported	<p>1) The sludge accumulated in all units of the Phasell CETP plant is removed.</p> <p>2) Presently Phase-I CETP plant is in operation. Hence after phase-II CETP plant which is under rehabilitation, Upgradation, is made operational after completion of work, the sludge removal from Phase-I CETP plant as well rehabilitation & Up-gradation work will be completed by 30/08/2019.</p> <p>3) The sludge accumulated in the MIDC effluent collection sump at Phase II is removed in the month of May 2018. The agency has been finalised for periodic removal of sludge in Phase —II tank.</p>	<p>Work Completed.</p> <p>30/08/2019</p> <p>In progress.</p>

12	To extend effluent disposal pipeline with diffuser system	MIDC	Nov.2019	Progress not reported.	1) NIO completed study of extending pipeline & suggested to extend by 3.3Km further from existing 7.72Km. so total line will be 11.02Km. 2) The estimate is being framed for the work including PMC.	30 th Nov 2019
13	To display SOPs for repair & maintenance of pipelines for extension of pipelines on website.	MIDC	15 th Nov 2018	Progress not reported.	Entire effluent collection lines repairs, replacement and remodeling completed in all respect.	Work Completed
14.	To check default by member units while sending effluent to CETP and place on website.	TMA & CETP/ MIDC	30 th Nov 2018	Action initiated Better coordination required among CETP, MIDC and MPCB	Vigilance team is formed, which is collecting the samples and daily report is being prepared. The fortnightly reports of defaulting members are being furnished to MPCB for necessary action.	Continuous monitoring action to be carried out for satisfactory performance of CETP to achieve the disposal norms.
15	To submit graphical presentation of daily average concentration values of effluent received and treated effluent disposed to the committee and display on website.	CETP/ MIDC	7 th day of every month	Analysis results and graphical presentation not submitted. Progress not reported.	Graphical representation for 7th Dec, 7th Jan, 7th Feb and 7th March is prepared and submitted. As suggested by monitoring committee daily work progress is submitted to MPCB by e-mail.	Work completed. However, it is continuous process of monitoring & analysis.

13. In view of above undisputed position that pollution is still continuing, the only option is to shut down the industries which are source of pollution till remedial action is taken. Learned Counsel for the MIDC as well as MPCB are unable to provide any other solution. It is made clear that mere fact that MIDC has assigned the work to a contractor does not absolve MIDC of its responsibility of operating CETP as per norms.

14. Accordingly, we direct the MPCB to forthwith suspend the Consent to Operate to the industries in the area not meeting the norms and permit them to operate only after remedial steps are taken. Steps in this direction be taken within two weeks from today. Whether a particular industry is complying or not complying with the norms is the matter to be decided by the MPCB in accordance with law. Action taken report be furnished to the Committee and the Committee may take a final call in the matter, in case of any surviving issue.

15. Learned Counsel for the Taloja CETP Co-operative Society Limited states that a sum of Rs. 6.1 Crores has been collected and deposited with the District Magistrate. The remaining amount may be collected and deposited with the District Magistrate by MIDC. The amount may be spent on restoration of damage to the environment by furnishing an action plan to the Committee.

List for further consideration on 23.07.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

April 09, 2019
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DV

