

Aryavart Foundation vs M/S Ria Cetp Co.Op. Society Ltd on 31 March, 2023

Item No. 8

(Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

(By Video Conferencing)

Original Application No. 58/2022 (WZ)
I.A. No. 73/2022

Aryavart Foundation

.....Applicant

Versus

M/s Ria CEPT Co-Op Society Ltd. & Ors.

....Respondent(s)

Date of hearing: 31.03.2023

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

Applicant	:	Shri Raj Panjwani, Sr. Advocate along-with Dr. Surendra Singh Hooda, Advocate
Respondent(s)	:	Mr. Saurabh Kulkarni, Advocate for R-1/PP Mr. Vilas A. Jadhav, Advocate for R-2/MPCB Mr. V. V. Killedar, R.O. MPCB for R-2 Mr. Aniruddha Kulkarni, Advocate for R-3/CPCB Ms. Shyamali along-with Ms. Harshita Bhanushali, Advocates for R-4/MIDC

ORDER

1. From the side of Applicant, learned Senior Counsel Shri Raj Panjwani along-with learned Counsel Dr. Surendra Singh Hooda have appeared.

2. From the side of Respondent No. 2/MPCB, learned Counsel Mr. Vilas Jadhav has appeared. He has pointed out that Respondent No. 4/MIDC was directed by the Answering Respondent to take over the CETP at Roha Industrial Area and the letter regarding handing over of the said CETP is annexed at page no. 700 of the paper book, where-in it is mentioned that "as per the directions of MPCB, the CETP at Roha Industrial Area, which is in possession of M/s. RIA CETP Co. Op. Society Ltd. is handed over to Deputy Engineer, MIDC, Sub-Division, Roha and further the same is handed over to M/s. R & B Infra Projects Pvt. Ltd. Hydroair Tectonics (PCD) Ltd. (JV) for upgradation and O&M (Operation & Management). The inventory of structures/installations in the CETP premises is as per annexure-I enclosed."

3. Thereafter learned Counsel for Respondent No. 2/MPCB has drawn our attention to page no. 501 of the paper book, which is a direction issued by the Answering Respondent to the Chief Executive Officer, MIDC under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974, where-in at Serial No. 4, the matter of RIA CETP has been dealt with, where-in it has been recorded that "the concentrated pollution load is received at Inlet of CETP. The Board has issued various directions, imposed bank guarantees, increased vigilance among individual industries and CETP. The Board has closed down industries which are grossly violating disposal standards to the inlet of CETP. The CETP has proposed the upgradation and expansion of existing CETP. Accordingly, Board has granted Consent to Establish for upgradation and expansion of CETP on 26.03.2015" and at page no. 505 of the paper book, following is recorded:-

" 1) You shall take over the non-conforming CETPs namely, TEPS-

CETP, D-CETP Chemical, Additional Ambernath CETP, RIA CETP, PRIA CETP and Lofe CETP located in MIDC areas, within a period of 3 months i.e. on or before 31/05/2017.

2) You shall operate & maintain these CETPs by your own or otherwise through an Expert Agency.

3) In case the MIDC appoint an Expert Agency for operation & maintenance of the above CETPs, then, the Member Industries/CETP Association shall not directly pay the cost of operation & maintenance to the Expert Agency. MIDC shall collect the said cost from the Member Industries of the aforesaid CETPs.

4) MIDC being the infrastructure/nodal agency, shall take up the job of operation & maintenance of above non-conforming CETPs within a period of 3 months from the date of receipt of these directions.

5) You shall submit the time bound program to take over the non- conforming CETPs in MIDC area within a period of one month from the date of receipt of these directions.

In case of failure, the Maharashtra Pollution Control Board will initiate appropriate legal action against the MIDC, which please note."

4. As per the above, the learned Counsel for the Respondent No. 2 has also drawn our attention to page no. 343 of the paper book, which contains the EC granted to M/s. RIA-CETP Co. Operative Society Ltd. while at page no. 716 of the paper book, the Regional Officer of the MPCB, Raigad had issued direction dated 08.08.2022 under Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 to M/s. Roha Industrial Association, MIDC Dhatav, Taluka: Roha, District:

Raigad. We enquired from the learned Counsel for the Respondent No. 2/MPCB as to why the said direction was issued to M/s. Roha Industrial Association instead of the RIA-CETP Co. Op. Housing Society Ltd., no appropriate reply could be given by him. Therefore, we direct the learned Counsel to file an additional affidavit clarifying this position.

5. Our attention is also drawn by the learned Counsel for the Respondent No. 2/MPCB to page no. 703 of the paper book, which contains the Renewal of Consent to Operate granted to M/s. RIA CETP Co. Op. Society Ltd. dated 30.07.2022, which is valid from 31.12.2021 till 31.12.2026.

6. From the side of Respondent No. 4/MIDC, learned Counsel Ms. Shyamali has appeared, who has drawn our attention to page no. 427 of the paper book, where-in in para no. 24, it is submitted that in view of the directions of the MPCB, MIDC has appointed M/s. CH2M Hill (India) Pvt. Ltd., (now Jacobs) ("expert agency") as a Project Management Consultant (PMC) to carry out assessment of the condition of RIA CETP as well as for developing water resiliency through recycling of water in the MIDC areas and associated infrastructures.

7. It is further submitted in this affidavit that the rehabilitation and upgradation work of Roha CETP is going on, which is planned to be completed and commissioned by 31st January 2023, which date has now been shifted to 30.04.2023 (as apprised orally by the learned Counsel). It has been orally submitted by the learned Counsel that after the completion of this work, they are ready to handover to the Respondent No. 1-M/s. RIA CETP after 60 months from the date of commissioning but this fact may be brought on record by the learned Counsel for the Respondent No. 4 by filing an additional affidavit, if so desired.

8. From the side of Respondent No. 1/Project Proponent, it has been brought to our notice that one M/s. Sudarshan Chemicals is generating 14.40 MLD effluent, which is also going to the collection tank of the CETP outlet point. Therefore, the same is a necessary party in this case. We are convinced with this argument and are of view that M/s. Sudarshan Chemicals should be impleaded as one of the Respondents i.e. as Respondent No. 5 and amended memo of parties shall also be placed on record forthwith. After the amendment, we direct the Registry to issue notice to the said newly impleaded Respondent, returnable within 04(four) weeks.

9. From the side of Applicant, learned Senior Counsel has drawn our attention to page nos. 94-95 of the paper book, which is a visit report dated 20.01.2021 conducted by the Respondent No. 2/MPCB, where-in at serial no. 11, it is recorded that "after repetitive instructions to CETP in- charge to inform the list of defaulting industries, whereas CETP Authority failed to comply the same". In this very report, at serial no. 6, it is recorded that "mechanical bridge and secondary clarifier were not in operation", at serial no. 7, it is recorded that "sand filter and carbon filter were found not in operation" and at serial no. 8, it is recorded that "filter press was found not in operation, sludge handling was found poor in condition". Having drawn our attention to this, it is vehemently argued by the learned Senior Counsel that no such information till date has been collected as to who were the defaulting industries.

10. After having heard the arguments of the learned Counsel for the parties, who are present today, we are of the view that lot of ambiguities are there in this case, which need to be clarified before we arrive at a final conclusion as to who should be held responsible for paying environmental compensation for the period for which the CETP was not functioning according to consented parameters and in this regard, we find that the Joint Committee Report is also very vague because it is not indicated in it as to from which date, the violation has started happening and till when.

Therefore, we deem it appropriate to order that the Joint Committee shall submit an additional report in this regard before us before the next date or within a period one month positively, whichever is earlier.

Put up this matter for hearing on 26.05.2023

11. Dinesh Kumar Singh, JM Dr. Vijay Kulkarni, EM March 31, 2023 Original Application No. 58/2022 (WZ) P.Kr