

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**PUBLIC INTEREST LITIGATION NO.17 OF 2011**

Nicholas H. Almeida

..Petitioner

Versus

State of Maharashtra & Ors.

.Respondents

Mr. G.R. Joshi with Mr. Vishal Kanade and Kaushika Muthukumar i/b. RMG Law Associates for the petitioner.

Mr. J.S. Saluja, AGP for respondent No.1.

Mr. Prashant Chavan with Shyamali Gadre i/b. Little & Co., for respondent No.2.

Mr. Nitin Deshpande with Ms. Rachana Chavan for respondent No.3.

Dr. Sadhana Mahashabde with Reshma Nair, Jasmin Shah, Sunita Pendharkar for Respondent No.13 RIA Roha CETP and for respondent No.6, 9, 10 and 12.

Dr. Sharma with Mrs. Madhubala Kajle for respondent No.4.

**CORAM: MOHIT S. SHAH, C.J. &  
ANOOP V. MOHTA, J.**

**DATE : 10 January 2013**

**P.C.**

Mr. Nitin Deshpande, learned counsel for MPCB has tendered affidavit dated 5 January 2013 of Mr.Yashwant B.Sontakke, Joint Director (Water pollution Control) of the Maharashtra Pollution Control Board.

2. Affidavit contains observations first about Badlapur CETP. From the contents of the affidavit and the summary of the performance of Badlapur CETP from between 20 November 2012 and 31 December 2012, it appears that there is substantial improvement and BOD and COD levels appear to be within the permissible limits. However, the

MPCB shall continue to monitor the performance of Badlapur CETP and shall also take surprise samples of the treated effluent being discharged by Badlapur CETP.

3. Dr. Sadhana Mahashabde, learned Counsel for Badlapur CETP states that on line flow meter will be installed by 31 January 2013. But the Association of Badlapur CETP has reservations about the need for Total Organic Carbon (TOC) analyzer. According to the Association such TOC analyzer is not required when the COD levels are within permissible limits.

4. We are informed that MPCB has already appointed NEERI as consultant for studying the performance of the CETP, Badlapur and also to recommend necessary measures for improving the performance of CETP by way of upgradation of CETP. It will, therefore, be in the fitness of things that the submission of Badlapur CETP, (that it does not necessary to require TOC analyzer) shall be considered by NEERI. The NEERI team will give an opportunity of hearing to the office bearers of Badlapur CETP as well as to the Petitioner and his technical representative. The MPCB will do the necessary co-ordination for such hearing, which may take place as expeditiously as possible.

5. Our attention is also invited to the MIDC issues in respect of Badlapur CETP. One of the remarks reads that the Co-operative society has submitted proposal for improvement, upgradation and enhancement of the capacity of CETP on 30 June 2011, however, proposals are stated to be held up at MIDC, which has not forwarded the said proposals to NEERI.

Mr. Prashant Chavan, learned counsel for the MIDC states that the MIDC will forward the proposals to NEERI within two weeks from today.

6. Learned counsel for the CETP Badlapur Association submits that the large scale and medium scale industrial units are required to meet the statutory norms for treated effluent at the discharge point of the individual unit, even though the treated effluent of these units is being discharged in Badlapur CETP. It is submitted that when such units are discharging their treated effluent into CETP's inlet point and CETP gives necessary treatment, the results at CETP outlet point should be considered as relevant for the purpose of compliance with the norms specified in the consent letter and the statutory requirements.

7. Mr. Deshpande, learned counsel for MPCB submits that the CETPs are generally meant for small scale units and, therefore, for medium scale and large scale units, the MPCB requires them to follow the statutory norms at their individual discharge point.

8. Having heard the learned counsel for parties, it appears to us that when the CETP is accepting the effluent being discharged by individual units after primary or primary and secondary treatment, and such effluent is given secondary treatment, the CETP must satisfy MPCB that reading of the effluent being discharged by an individual industrial units at their discharge point is not higher than CETP inlet norms of the Badlapur CETP and that the CETP is able to treat such effluent to the extent that CETP treated effluent at the CETP outlet point, meets with the statutory norms. The MPCB shall, therefore,

consider this matter giving CETP an opportunity as stated above, including particulars about the capacity of CETP to treat the volume of effluents being discharged by all units in the MIDC, Badlapur area, whose effluents are being discharged into CETP.

9. Mr.Deshpande, learned counsel for MPCB invites our attention to the directions given by MPCB to CETP Badlapur for improvement of their CETP.

Learned counsel for CETP Badlapur states that, as regards direction No.3, online flow meters are already installed and about TOC Analyser, the CETP would like to make submission to NEERI as stated above. Directions Nos. 1 and 2 would be complied with by 31 January 2013. As regards, direction No.4, learned counsel states that the tertiary study by the Association itself has already been carried out on February 2012 and that the tertiary study will again be carried out through a suitable agency, which will be appointed by February 2013.

10. Learned counsel for CETP Badlapur submits that for setting up CETP at Badlapur, the CETP Association is entitled to get subsidies from MPCB as well as Union of India through Ministry of Environment & Forest (MOEF), but subsidies are not yet received.

11. Having heard learned counsel for CETP Badlapur Association and the learned counsel for MOEF, we direct that a senior officer of MOEF shall give personal hearing to the office bearers of Badlapur CETP and any other associations running CETPs in the State of Maharashtra, which have applied for subsidies and the subsidies are

not still sanctioned or released by the MOEF. After such hearing at Mumbai or at Badlapur, the MOEF shall take necessary decision.

12. MPCB shall also consider the applications of Association running CETP Badlapur for subsidies for setting up CETP in accordance with the government scheme, as expeditiously as possible and preferably by 31 January 2013.

13. As far as CETP, Chincholi, Solapur is concerned, learned counsel for the CETP submits that the MPCB has been directing the CETP Associations to furnish bank guarantees of large amount for ensuring the provision of various facilities and maintenance of CETP units, repairs and for tertiary study etc. It is submitted that the CETP will, therefore, be required to block large amounts for such bank guarantees depriving the CETP of the scarce funds required by CETP for complying with several directions given by MPCB.

14. Having heard learned counsel for parties, we are of the view that since the Association running the CETP at Chincholi agrees to comply with the directions, the requirement of furnishing various bank guarantees referred to in the affidavit of MPCB may be deferred for some time, so that those funds are available for providing necessary facilities including tertiary treatment. Accordingly, directions for furnishing bank guarantees as referred to under the title "Future Actions/ in progress for improvement of Greenfield, CETP, Chincholi Solapur" are deferred till 31 March 2013, provided the Association reports satisfactory progress on the next date of hearing.

15. Learned counsel for the Association running CETP in Chincholi submits that the MPCB should apply the norms of 100 BOD and 250 COD in stead of 30 BOD and 100 COD.

16. Mr.Deshpande, learned counsel for MPCB submits that since the effluent being discharged by the industries in Chincholi is not being discharged into marine water, but on the land, the grievance is not justified.

17. We do not propose to express any opinion at this stage, but direct that NEERI team shall inspect the MIDC in Chincholi, Solapur and also inspect the CETP being run by the Association of Chincholi industrial units and submit the report after observing performance of the CETP and also after inspecting the overall situation in the MIDC, Chincholi area.

18. Within two weeks from today, the Association running CETP, Chincholi, Solapur shall give MPCB and MIDC list of industries in MIDC, Chincholi, Solapur, which are not sending their effluent into the CETP for treatment. Within two weeks thereafter such list shall be placed on the record of this PIL.

19. Stand over to 14 February 2013.

**CHIEF JUSTICE**

**(ANOOP V MOHTA, J.)**