

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 17 OF 2011**

Nicholas Almeida and others. ... Petitioners
Versus
State of Maharashtra and others. ... Respondents

**ALONGWITH
NOTICE OF MOTION NO.349 OF 2012
IN
PUBLIC INTEREST LITIGATION NO. 17 OF 2011**

The Tarapur Environment Protection Society .. Applicant

In the matter between

Nicholas Almeida and others. ... Petitioners
Versus
State of Maharashtra and others. ... Respondents

Mr. G.R. Joshi with Mr. Vishal Kanade and Kaushika Muthukumar i/by M/s. RMG Law Associates for the petitioners.
Mr. J.J. Saluja, Assistant Government Pleader for Respondent No.1-State.
Mr. Prashant Chavan with Ms.Shyamali Gadre i/by M/s. Little & Co. for respondent No.2.
Mr. Nitin P. Deshpande with Ms. Rachna Chavan for respondent No.3.
Ms. Madhubala Kajle for respondent No.4.
Mr. C.M. Lokesh for respondent No.5.
Dr. Sadhana Mahashabde for respondent Nos.6,9 and 12.
Mr. J.P. Sen with Dr. Birendra Saraf i/by M/s. Federal Rashmikant for respondent No.8.
Mr. S.B. Deshmukh for the applicant in N.M.No.107 of 2012.

CORAM : MOHIT S. SHAH, C.J. &
ANOOP V. MOHTA, J.
Tuesday, November 20, 2012

P.C.

In spite of several directions given by this Court on 5 July 2012, the learned counsel for MPCB is not in a position to state that MPCB has started sharing data about the polluting industries with the respective associations running CEPT in MIDC Industrial areas.

2. Mr. J.P. Sen, learned counsel for Tarapur Environment Protection Society (respondent No.8) in MIDC Tarapur Boisar, Dist. Thane, states that there are as many as 1176 industries in MIDC Tarapur Boisar. Respondent No.8 is not in a position to give any particulars about highly polluting industries because on the one hand, the individual industrial unit do not permit respondent No.8 to collect samples of their industrial effluent and on the other hand, MPCB also does not share data about such industrial units.

3. In the notice of motion, Tarapur Environment Protection Society- respondent No.8 has prayed that the following directions be issued to MPCB:-

“(d) that this Hon'ble Court be pleased to direct Respondent No.3 i.e. Maharashtra Pollution Control Board (MPCB) to:

- (i) furnish copies of consents to operate and renewal of such consents, issued by Respondent No.3, to the Industries in MIDC, Tarapur Industrial Area, under the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, as also copies of closure notices and/or other action taken by Respondent No.3 against highly polluting industries;

- (ii) to ensure that the industries comply with the inlet norms of the CETP and of the individual consents to operate issued by Respondent No.3 (MPCB) to the industries and to inform TEPS of the action taken by Respondent No.3 against the defaulting industries;"

4. It is clear that unless the MPCB and MIDC extend necessary cooperation to respondent No.8, it will not be possible for respondent No.8 to effectively run the CETP. The grievance is that though the capacity of the CETP being run by respondent No.8 is 25 million liters of effluent per day, the actual discharge by industries is to the extent of almost 45 million liters per day. It is, therefore, apparent that an alarming situation is prevailing in MIDC, Tarapur where 20 million liters of industrial effluent is being discharged without any treatment by CETP.

5. Respondent No.8 has, therefore, prayed for following directions against respondent No.2 MIDC:-

"(e) that this Hon'ble Court be pleased to direct Respondent Nos.2.

- (i) to take appropriate measures to control the consumption of water by the industries from unauthorized sources such as tankers, bore wells etc;

- (ii) to provide the necessary infrastructure in the MIDC Tarapur Industrial Area including but not limited to additional sumps;

6. The MPCB and MIDC are, therefore, directed to take note of the above alarming situation and take necessary steps including sharing information with respondent No.8 as per prayer clause (d) quoted above and also to take appropriate measures to control the consumption of water by the industries from unauthorized sources i.e. tankers, bore wells etc.

7. In order to ensure that respondent No.8 is in a position to effectively control treatment of industrial effluents in MIDC, Tarapur Industrial Area, the MPCB shall furnish to respondent No.8 the list of industries having high pollution potential i.e. the industries in the red category immediately and in any case within one week from today and thereafter, within three weeks from today, MPCB shall furnish to respondent No.8 the details about the industries in the orange category. The information shall include the analysis reports of the samples collected by MPCB from the concerned individual industrial units in the year 2012.

8. It is further directed that the MIDC as well as MPCB shall inform all the individual industrial units in MIDC, Tarapur Industrial area to permit respondent No.8 association to take samples of industrial effluents from the respective industrial units for the purpose of samples. In case the individual industrial units do not extend necessary cooperation, it will be open to respondent No.8 to stop receiving effluent from that unit into CETP and to disconnect the outlet pipeline of that unit.

9. MIDC, Tarapur Industrial Area shall also inform the concerned industrial unit that in case of failure on their part to extend necessary cooperation to respondent No.8 in the matter of collecting samples, it will be treated as Contempt of Court and this Court will take action against the concerned industrial unit for violation of these directions.

10. Respondent No.8 has further prayed for the following directions against respondent MIDC:-

“(c) that this Hon'ble Court be pleased to direct Respondent No.2 (MIDC) to :

- (i)
- (ii) to recover the treatment charges of Rs.1,52,00,604/- due to Respondent No.8, for services rendered by it, from the industries mentioned in Exhibit 'S' to the Affidavit in support and after deducting Respondent No.2's 2% service charges, to pay over the balance amount to Respondent No.8;
- (iii) to disconnect the water supply of those industries in MIDC Tarapur Industrial Area, which are in default of payment of treatment charges of Respondent No.8, till the time the same are paid to Respondent No.8.”

11. The learned counsel for respondent No.8 also invited our attention to the fact that some industrial units in MIDC, Tarapur Industrial Area have been defaulting in payment of the effluent treatment charges. By 27 November 2012, MIDC as well as respondent No.8 shall separately inform each defaulting industrial unit about this grievance being made by respondent No.8 and direct it to pay all the arrears of effluent treatment charges to respondent No.8 by 10 December 2012, failing which MIDC will stop supplying water to the concerned defaulting industrial unit. In order to obviate any dispute about service of individual notices to hundreds of industrial units in MIDC, Tarapur Industrial area, a general notice to this effect shall also be displayed on the website of MIDC, alongwith a list of the defaulting units to be supplied by respondent No.8 to MIDC by 23 November 2012.

12. The directions given by this Court on 5 July 2012 as well as the above directions being issued today shall also apply to RIA CEPT Co-operative Society in MIDC, Dhatav, Roha and to all the individual industrial units in MIDC, Dhatav, Taluka Roha. RIA CEPT Co-operative Society is permitted to be added as party respondent No.13 in PIL No.17 of 2011.

13. After the information is furnished by MPCB to respondent No.8 for MIDC Tarapur Industrial Area within three weeks from today, MPCB shall furnish similar information to other associations running CETP in the MIDC industrial areas and in particular to -

- (i) Lote Parshuram Protection Co-operative Society, P-10, MIDC Lote, Khed, Dist. Ratnagiri,
- (ii) M/s. Greenfield CETP Plant Pvt. Ltd., P-17, MIDC Chincholi, Dist. Solapur.
- (iii) Badlapur CETP Association, Dist. Thane shall be done within two weeks from today.
- (iv) Chikhholi-Morivali Effluent Treatment, P-17, MIDC Morivali, Ambarnath, Dist. Thane,
- (v) RIA CEPT Cooperative Society, MIDC, Dhatav, Taluka Roha, Dist. Raigad.

14. The MPCB shall henceforth display on its website the performance of all the CETPs covered by the orders being passed in this PIL on weekly basis at least from 10 December 2012 onwards and the performance of all other CETPs in the State of Maharashtra on weekly basis from 1 January 2013 onwards.

15. Stand over to 13 December 2012.

Parties to act on an ordinary copy of this order duly
authenticated by Court Associate

CHIEF JUSTICE

ANOOP V. MOHTA, J.