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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION No. 5225 of 2017

Anuh Pharma Ltd	..	..Petitioner.
Vs		
State of Maharashtra & Anr	..	..Respondents.

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Mr. Saket Mone a/with Mr. Subit Chakrabarti i/by Vidhi Partners for the petitioner.

Mr. N.C.Walimbe, A.G.P. for Respondent No.1.

Ms Sharmila Deshmukh for Respondent No.2 – MPCB.

Mr. Prashant Chavan a/with Ms. Reshmarani Nathana & Chaitali Kandare i/by Navdeep Vora for Respondent No.3-MIDC Tarapur, District Palghar.

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CORAM : V.M. KANADE & C.V.BHADANG,JJ.

DATED : 4th May, 2017.

P.C.

1) Heard learned counsel for the petitioner, learned A.G.P. for Respondent No.1, Ms. Deshmukh, learned counsel for Maharashtra Pollution Control Board (MPCB) and Ms. Nathani, learned counsel for Respondent No.3-Maharashtra Industrial Development Corporation (MIDC).

2) The petitioner proposes to set up a new plant and also to expand the existing plant on plot No. E-18 at MIDC Tarapur, District Palghar, Maharashtra.

3) The learned Counsel appearing for the petitioner submitted that the said plant will have Zero Liquid Discharge. It is submitted that the petitioner has made an application to Respondent No.2-MPCB and MPCB by an order dated 23rd May, 2016 gave no objection for setting up said plant and has given certificate that there will be Zero Liquid Discharge of effluents from the said plant and from the expanded version of the said plant.

4) It appears that an application was filed before the National Green Tribunal (NGT) vide Application No.37 of 2013 in which NGT was pleased to give direction that no permission should be granted to establish any new plant or to expand the existing plant. This order was modified by this Court in the group of petitions (lead Petition being Writ Petition No. 7208 of 2015). This Court directed the establishments which propose to set up new plant or expand the existing plant to approach the MIDC and apply for NOC for setting up proposed plant provided if it satisfies

that there is Zero Liquid Discharge of affluent. MIDC however informed the petitioner therein that it did not have the expertise to give such NOC. This Court therefore modified the order and observed instead of obtaining NOC from MIDC, NOC should be obtained from the MPCB and give intimation to the National Green Tribunal (NGT). It is further clarified that approval of NGT was not required.

5) In the present case, it is not in dispute that on 23rd March, 2016 in the meeting of the Consent Committee of the Maharashtra Pollution Control Board (MPCB) the papers of the petitioners were processed. The application for consent to establish was principally approved. While doing so it made the following observations :-

“It is noted that industry has submitted proposal to 100% recycle of treated trade effluent in process and going to achieve zero discharge hence, there is no addition load to CETP. Hence application for consent to establish is principally approved, by imposing conditions :

1. Industry shall not take any effective steps without obtaining prior Environmental Clearance and submit BG of Rs.10 lakhs for the compliance of the same and conditions of consent to establish.

2. Industry shall 100% recycle the treated trade effluent in process by providing Primary Secondary tertiary, RO treatment & Multiple Effective Evaporator to achieve zero liquid discharge for this project.

3. Industry shall install separate energy meter to Multiple Effective Evaporator.

4. The consent is granted without prejudice to the order passes or being by Hon'ble NGT and Hon'ble High Court.

Considering the order passed by Hon'ble NGT and Hon'ble High Court, in respect of CETP, the consent shall be issued after obtaining opinion from MIDC Authority."

6) Though it is observed that consent would be issued after obtaining the opinion of the MIDC Authority, in view of the subsequent order passed by this Court and clarification issued by this Court in various orders, particularly in Writ Petition No.393 of 2017 dated 15th February, 2017, in our view, it is not necessary to obtain opinion of the MIDC. The said condition need not be complied with. Since MPCB have given an undertaking that it shall comply with the guidelines of the Central Pollution Control Board dated 31st March, 2016 and shall give intimation to the National Green Tribunal. It is clarified that approval of the MPCB is not required in view of the clarificatory order passed by this Court from time to time. Petition is disposed of. It is clarified that permission to establish plant shall be granted by MPCB within a period of six weeks from today.

(C.V. BHADANG,J)

(V.M. KANADE,J)