

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9452 OF 2021

ACG Associated Capsules Pvt. Ltd.	} } } }	Petitioner
versus		
Maharashtra Pollution Control Board and Ors.	} }	Respondents

Mr. Rahul Narichania with Lizum Wangdi,
Anukul B. Seth and Tabrez M. for the
petitioner.

Ms. Sharmila Deshmukh for respondent no. 1.

Ms. Amita Kamble i/b. Ms. Kshitija Wadatkar
and Associates for respondent no. 2.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: FEBRUARY 21, 2022

P.C.:

1. Our order dated 23rd December 2021 records the subject matter of challenge in this writ petition as well as the submissions advanced on behalf of the parties, on consideration whereof ad-interim relief was granted with certain conditions to be complied with by the petitioner as well as grant of liberty, which the Maharashtra Pollution Control Board (hereafter "the Board", for short), was permitted to avail. Since the writ petition could not be heard on the returnable date, the period for which the ad-interim relief was to remain operative stood extended and is presently in force till 31st March, 2022.

2. Today, at the outset, Mr. Narichania, learned senior advocate appearing for the petitioner submits that one of the grievances raised in the writ petition relates to non-affording of personal hearing to the petitioner prior to the impugned 'closure' notice being served on it; however, the Board, after conducting appropriate inspection in terms of the liberty granted by the order dated 23rd December 2021, has since issued a notice of personal hearing, in pursuance whereof, the petitioner has been called upon to present its case before the Board today at 2.30 p.m. According to Mr. Narichania, the notice was received by email yesterday and the period is too short for the petitioner to prepare itself well to argue its case before the Board. He has, accordingly, prayed that the Board may be directed to defer the hearing for two weeks.

3. We have heard Mr. Narichania as well as Ms. Deshmukh, learned advocate for the Board and are of the view that in view of the subsequent development referred to above, this writ petition need not be kept pending and may be disposed of at the stage of admission with directions. We, accordingly, direct as under: -

- (i) The Board shall afford personal hearing to the petitioner on Monday next (28th February 2022) at 2.30 p.m. No further notice need be served on the petitioner.
- (ii) At the hearing, the petitioner shall be at liberty to raise all points and contentions in defence before the Board for its further consideration.
- (iii) The petitioner may be represented by an advocate of its choice at the hearing.

- (iv) Documents that the Board would seek to rely on against the petitioner may be supplied well in advance, latest by Wednesday next (23rd February 2022).
- (v) The petitioner shall be at liberty to place documents in support of its defence before the Board, which shall be given due consideration.
- (vi) The petitioner shall also be at liberty to take steps in relation to the return of the amendment application dated 31st October 2018 filed with respect to a condition contained in the consent to operate dated 31st May 2018 relating to recycling of 60% treated trade effluent.
- (vii) The Board shall endeavor to pass the final order in the proceedings upon grant of personal hearing to the petitioner as early as possible, but not later than 5th March 2022.
- (viii) Since the ad-interim order is effective till 31st March 2022, we do not propose to discontinue such order at the present but in the event any order is passed by the Board adverse to its interest acting in terms of this order, the petitioner shall be at liberty to approach the appropriate forum for redress and till that date no coercive action shall be taken against it by the Board on the basis of such adverse order.

4. With the aforesaid directions, the writ petition stands disposed of leaving all contentions open for being urged before the appropriate forum in accordance with law. No costs.

SALUNKE
J V

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by SALUNKE J V
Date: 2022.02.21
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(M. S. KARNIK, J.)

(CHIEF JUSTICE)