

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5783 OF 2018

1. Bhavani Saw Mill, }
a/p. Parite, Tal : Karveer, Dist: }
Kolhapur, Through: Keshavlal }
Kanji Patel. }

2. Patel Saw Mill }
Mahaveer Nagar, a/p. Hpri, Tal: }
Hatkanangle, Dist: Kolhapur. }
Through: Purushottam Hansrraj }
Patel. }

3. Shankar Vijay Saw Mill }
223/A,a/p. Hupri, Tal: Hatkanangle }
Dist: Kolhapur. Through Mohanlal }
Ramji Patel }

4. Harihar Saw Mill }
148 Mahaveer Nagar, a/p. Hupri. }
Tal: Hatkanangle, Dist: Kolhapur. }
Through: Liladhar Arjun Patel. }

5. Dhanlaxmi Saw Mill }
Peth-Vadgaon, Tal: Hatkanangale, }
Dist: Kolhapur. 416 112 }
Through : Maruti Bapu Bhosale. }

6. Shankar Vijay Saw Mill }
712/8, Kalamba Road, Near Petrol }
Pump, Timber Market, Kolhapur. }
Through : Mohan Virji Patel. }

7 Laxmi Saw Mill }
Plot No. 6, Timber Market, }
Kolhapur, Through: Vijay }

Balkrishna Sutar. }

8. Hanuman Saw Mill }
68/b, Near Central Bank, a/p. }
Vathar, Tal : Hatkanangale, Dist: }
Kolhapur. 416 112. Through : }
Raghunath Sakharam Sutar. }

9. Jai Shivraj Saw Mill }
a/p. Yalgud, Tal : Hatkanangale, }
Dist: Kolhapur. Through: Balaso }
Tukaram Sutar. }

10. Kedarnath Saw Mill }
282/2, a/p. Nartawade, Tal: }
Radhanagari, Dist: Kolhapur 416 }
212. Through: Shamrao Rau Sutar. }

11. Shri Ganeshkrupa Saw Mill }
1962, a/p. Sarud, Tal: Shahuwadi, }
Dist: Kolhapur. Through : }
Narsinh Harji Patel }

12. Jamadar Saw Mill }
a/p. Hupri, Tal. Hatkanagle, }
Dist: Kolhapur, Through : Ramjan }
Yusuf Jamadar }

... Petitioners.

V/s.

1. The State of Maharashtra }
Ministry of Environment and }
Forest Trough its Principal }
Secretary Mantralaya, Mumbai. }

2. Maharashtra Pollution Control }
Board Through: Regional Officer, }
Udyog Bhavan, Near Collector }
Office, Kolhapur. }

3. Maharashtra Pollution Control }
Board, Kalptaru Point, 2nd and 4th }
floor Opp. Cine Planet Cinema, }
Near Sion Circle, Sion (E), }
Mumbai. 400 022. }
4. Central Pollution Control Board }
Parivesh Bhavan, CBD cum Office }
Complex, East Arjun Nagar, }
New Delhi. }
5. Union of India }
Environment Bhavan, CGO }
Complex, Lodhi Road, New Delhi } ... Respondents.

WITH
WRIT PETITION NO. 2382 OF 2018

M/s. Patel Saw Mill and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 2383 OF 2018

M/s. Uma Shankar Timber Depot and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 2380 OF 2018

M/s. Shri. Mahadev Timber Depot and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 2381 OF 2018

M/s. Jawahar Saw Mill and
Timber Merchant and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 2661 OF 2018

M/s. Shri Devi Timber Mart
and Saw Mill and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 2879 OF 2018

The Kolhapur Wooden Packing Saw
Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3162 OF 2018

Vasagade Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3348 OF 2018

Sangli Zilla Timber Udyojak
Association, Sangli

... Petitioners.

V/s.

The State of Maharashtra and Ors.

... Respondents.

WITH
WRIT PETITION NO. 3546 OF 2018

Laxmi Saw Mill and Ors.

... Petitioners.

V/s.

The State of Maharashtra and Ors.

... Respondents.

WITH
WRIT PETITION NO. 3548 OF 2018

Hindustan Saw Mill and Ors.

... Petitioners.

V/s.

The State of Maharashtra and Ors.

... Respondents.

WITH
WRIT PETITION NO. 3549 OF 2018

Shri Laxmi Saw Mill and Ors.

... Petitioners.

V/s.

The State of Maharashtra and Ors.

... Respondents.

WITH
WRIT PETITION NO. 3550 OF 2018

Ashapuri Saw Mill and Ors.

... Petitioners.

V/s.

The State of Maharashtra and Ors.

... Respondents.

WITH
WRIT PETITION NO. 3551 OF 2018

Kolhapur Timber and Furniture Mart and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION (STAMP) NO. 8446 OF 2018

Shree Laxmi Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3568 OF 2018

Parshuram Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3567 OF 2018

Brhamadev Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3569 OF 2018

Trimurti Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3571 OF 2018

A. V. D. Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3570 OF 2018

Miyabhai Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3572 OF 2018

Aashpa Saw Mill ... Petitioner.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3600 OF 2018

Shri. Balaji Saw Mill and Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 3597 OF 2018

Maharashtra Saw Mill and Anr. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

WITH
WRIT PETITION NO. 4309 OF 2018

Shri. Jyotirling Saw Mill and Anr. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

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Adv. Zeal Karia h/f Mr. Avinash Gokhale for the Petitioners in Writ Petition Nos. 5783/2018, 3548/2018, 3549/2018, 3550/2018, 3551/2018, 3600/2018.

Mr. Sandeep Koregave a/w Ms Pallavi Karanjkar for the Petitioners in Writ Petition Nos. 2382/2018, 2383/2018, 2380/2018, 2381/2018, 2661/2018, 2879/2018, 3546/2018.

Mr. A. M. Adgule for the Petitioner in Writ Petition No. 3567/2018.
Mr. Umesh Mankapure for the Petitioner in Writ Petition No. 3348/2018.

Mr. Parag A. Vyas a/w Ms Karuna Yadav for the Respondent-UOI in all the Petitions.

Mr. Ramesh R. Badi for the Respondent- (MPCB).

Mr. C. M. Lokesh for the Respondent- (CPCB).

Mr. M. M. Pabale, AGP for the Respondent-State in Writ Petition Nos. 3597/2018, 4309/2018.

Ms R. A. Salunkhe, AGP for the Respondent-State in Writ Petition Nos. 5783/2018, 2382/2018, 2383/2018, 2380/2018, 2381/2018, 2661/2018, 2879/2018, 3162/2018, 3348/2018, 3546/2018, 3548/2018, 3549/2018, 3550/2018, 3551/2018, 3568/2018,

3567/2018, 3569/2018, 3571/2018, 3570/2018, 3572/2018, 3600/2018 and WP(ST)/8446/2018.

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**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE: 2 November 2023.

ORAL JUDGMENT: (Per Nitin Jamdar, J.)

Rule. Rule made returnable forthwith. The Respondents waive service.

2. Heard the learned Counsel for the parties

3. The Petitioners in this group of Petitions are carrying business of Saw Mill. They have filed these Petitions because the Respondent-State Pollution Control Board had issued notices of the water supply and electricity connection disconnection.

4. The broad categorization of the Petitions according to the notices issued to the Petitioners can be made as follows:

a) Notices dated 19 December 2017 / 19 October 2017 were issued referring to the instructions dated 4 December 2017 issued by the Minister, Environment, Government of Maharashtra, who has given for submission of status of Saw Mills, which are in operation in the State of Maharashtra and also it refers to the modified

direction of the Central Pollution Control Board, whereby Saw Mills activity came under consent management regime, and if the concerned Saw Mills owner did not obtain the necessary consent, legal action would be taken against them. These notices were issued to the Petitioners in the Writ Petition Nos. 3546/2018, 2380/2018, 3548/2018, 2382/2018, 4309/2018, 3597/2018, 3600/2018, 3570/2018, 3571/2018, 3569/2018, 3567/2018, 3568/2018, 8446/2018, 3551/2018, 3550/2018, 2383/2018, 2381/2018, 3546/2018 and 3549/2018.

b) A notice dated 1 January 2018 was issued calling upon the Petitioners as to why the unit should not be closed down forthwith, why competent authorities not be directed to disconnect the water/electricity supply till compliance with the provisions of the said Acts and why prosecution shall not be filed in the court of law. This notice has been issued to the Petitioners in Writ Petition Nos. 2380/2018, 2382/2018, 2381/2018, 2661/2018, 3162/2018, 3546/2018, 3548/2018, 2549/2018, 3550/2018, 3551/2018, 8446/2018, 3600/2018 and 3597/2018.

c) The closure directions dated 26 February 2018 were issued to some of the Petitioners, holding that the unit holders were not holding valid consent from the Board and since they were operating without consent and explanation given in response to their earlier notice of 1 January 2018 was not found to be satisfactory; therefore, directions were issued in exercise of power under Section 33A of

Water (Prevention & Control of Pollution) Act, 1974 and Section 31A of Air (Prevention & Control of Pollution) Act, 1981 giving direction to stop the activities and further directing the Authorities to disconnect water and electricity supply within 48 hours. These closure directions were issued to the Petitioners in Writ Petition Nos. 3548/2018, 3550/2018, 3551/2018, 8446/2018, 3568/2018, 3567/2018, 3569/2018, 3571/2018, 3570/2018, 3572/2018, 3660/2018, 3597/2018, and 4309/2018.

d) The notice dated 16 February 2018 was issued that the unit holders were not holding valid consent from the Board, and since they were operating without consent and explanation given in response to their earlier notice of 1 January 2018 was not found to be satisfactory. Therefore, directions were issued in exercise of power under Section 33A of Water (Prevention & Control of Pollution) Act, 1974 and Section 31A of Air (Prevention & Control of Pollution) Act, 1981 giving direction to stop the activities and further directing the Authorities to disconnect water and electricity supply within 48 hours. This notice was issued to the Petitioners in Writ Petition Nos. 2879/2018, 3548/2018, 3549/2018, 3550/2018, 3551/2018, 3600/2018 and 4309/2018.

5. The difference between these Petitioners is that some Petitioners received one notice, some received two, and some received three notices. In all these Petitions, there is more than one Petitioner; however, only sample notices are annexed, and all the

notices in respect of the Petitioners are not attached to the writ petitions.

6. The Petitioners contend that on receiving such direction notice issued under Section 33 A of the Water (Prevention and Control of Pollution) Act, 1974 and 31 of Air (Prevention and Control of Pollution) Act, 1981, the Petitioners approached the concerned authorities immediately, however, without taking into consideration their explanation, the authorities have proceeded and have disconnected their power supply and water supply. Therefore, the Petitioners have approached this Court challenging the notices and the action taken by Respondent No.2–The Maharashtra Pollution Control Board. The Petitioners have approached this Court primarily against the directions of disconnection of their electricity and water supply by the Pollution Control Board.

7. In some matters, the Petitioners had approached before the disconnection; therefore, they were protected by the orders passed by this Court with directions not to disconnect the electricity and water supply. However, in some matters, immediately after the issuance of the notice, Respondent No.2– The Maharashtra Pollution Control Board has directed the disconnect of the water and electricity connection. Therefore, the Petitioners amended the Petitions to incorporate the subsequent development.

8. It is the stand of the Petitioners that the Petitioners' Saw Mills, being Micro units, fall under the Green Category and do not cause any pollution nor are they hazardous to the environment and, therefore, it is not necessary for them to take consent. They resisted the action of the Board primarily on this ground. The Petitioners contend they have been running their respective business for many years with valid permission from the competent authorities. According to the Petitioners, all of a sudden, they received notices from Respondent No.2– The Maharashtra State Pollution Control Board through its regional officer demanding certain compliances to be made.

9. According to the Respondent Board, as per the notification issued by the Ministry of Environment and Forest, Government of India, under the Environment (Protection) Act, the Saw Mills are required to comply with the environmental norms stated in the notification dated 7 March 2016, and subsequent notification issued by the Ministry. The Petitioners have been put to notice that if such compliances are not made, their unit will be closed down, and competent authority will be directed to disconnect water and electricity supply.

10. Reply affidavit is filed by the Union of India. It is contended by the concerned authority of Union of India, Ministry of Environment and Forest, New Delhi, that as per the revised

categorization of industrial sectors finalized by the Ministry of Environment Forest and Climate Change, in consultation with CPCB in 2016, 'Saw Mills' have been categorized as 'Green' category which requires them to seek consent to operate from SPCBs /PCCs every 15 years.

11. It is an admitted position before us that the Petitioners have approached the State Pollution Control Board and have taken the necessary permissions, and their electricity and water supply are restored. The learned Counsel for the State Pollution Control Board states that, therefore, nothing survives in these Petitions. The Petitioners however contend that they have done so because of the notices issued by the State Pollution Control Board, and it is subject to their contention that they do not fall within the ambit of the Notification issued by the Ministry.

12. All these Petitioners had approached the Court when notices were issued and action taken. Now that the threatened action no longer exists as the Petitioners have taken the requisite permissions for a limited duration at least, the stand of the State Pollution Control Board on the legal issue raised by the Petitioners is therefore necessary.

13 In light thereof, the appropriate course of action would be to call upon the State Pollution Control Board to give an opportunity to the Petitioners to demonstrate that they are not required to take such

permission, and thereupon, the State Pollution Control Board to pass a reasoned order on the said subject.

14 Since there are several Petitioners, it would not be practicable to direct the State Pollution Control Board to give an oral hearing to each Petitioner. Therefore, each Petitioner may submit their written response to the State Pollution Control Board concerning the impugned notices, and thereupon, the State Pollution Control Board will consider the representation and pass final orders regarding the notices.

15 The Petitioners would submit their written representations within a period of eight weeks from today, and the State Pollution Control Board will take necessary decisions on the subject matter before the permissions granted to each of the Petitioners' Saw Mills expire and come up for renewal. Since we have directed that this exercise be carried out for each of the Petitioners before their permissions expire, the impugned threatened actions in these petitions obviously will not survive until further order is passed by the State Pollution Control Board.

16 If any of these Petitioners have not applied for permission, they shall do so within three weeks from today, subject to their contention raised in the Petitions and submit a representation. The timeline will come into effect from the date the order is uploaded.

17. Rule is made absolute in the above terms. The Writ Petitions are disposed of.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)