

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

WRIT PETITION NO.10808 OF 2023

Ashish Vilasrao Ghatge	] .. Petitioner
Vs.	
1. The State of Maharashtra,	]
Through Department of Environment,	]
Forest and Climate Change	]
2. Maharashtra Pollution Control Board, Mumbai	]
3. Arogyam Waste Management Pvt. Ltd., Kolhapur	] .. Respondents

Mr. Vinod P. Sangvikar, with Ms. Namrata Vora, for the Petitioner.
Mr. N.C. Walimbe, Addl. G.P., with Ms. Nisha M. Mehra, AGP, for Respondent No.1-State.
Mr. Jitendra Jagtap for Respondent No.2-MPCB.
Mr. Yuvraj Narvankar, with Mr. Mayur Mohite, for Respondent No.3.

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 12TH JANUARY, 2024.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. RULE. Rule made returnable forthwith. Ms. Mehra, learned AGP waives notice for respondent no.1-State, Mr. Jagtap, learned counsel waives notice for respondent no.2 and Mr. Mohite, learned counsel waives notice for respondent no.3.

2. The petitioner is aggrieved by the communication dated 30th June 2023 that has been issued by the respondent no.2-Maharashtra Pollution Control Board, thereby granting consent to Establish CBMWTSDf under Section 25 of the Water (P&CP) Act, 1974, Section 21 of the Air (P&CP) Act, 1981 and Bio-Medical Waste Management Rules, 2016, respectively, under Environment (Protection) Act, 1986, in favour of respondent no.3.

According to the learned counsel for the petitioner, the respondent no.3 was called upon to furnish various documents for consideration of its proposal. However, though the respondent no.3 did not supply those documents, the Board has proceeded to approve “in principle” consent. The petitioner has thereafter, on 19th July 2023, made a representation to the Principal Secretary of the Board and has sought revocation of the said consent. Since nothing further has happened in the matter, the present writ petition has been filed.

3. The learned counsel appearing for the Board submits that under Section 28 of the Water (Prevention and Control of Pollution) Act, 1974, remedy of preferring an appeal is available to the petitioner since the petitioner is aggrieved by the grant of consent in favour of respondent no.3. He, however, submits that if the representation made by the petitioner on 19th July 2023 is pending, the same shall be decided in accordance with law.

4. In aforesaid facts, the following directions would serve the ends of justice :-

- (i) The Concerned Authority of the Board shall hear the petitioner as well as the representative of respondent no.3 and consider the petitioner’s representation dated 19th July 2023.
- (ii) To facilitate consideration of the said representation, the petitioner as well as the representative of the respondent no.3 shall remain present in the office of the Board on 22nd January 2024 at 11:30 a.m. The said Authority shall take into consideration all relevant aspects as well as relevant statutory provisions and decide the representation.

- (iii) Within a period of three weeks from that date, the representation of the petitioner shall be decided.
 - (iv) The decision taken shall be communicated to the parties.
 - (v) In case any party is aggrieved by the decision taken on the representation, such party is free to take appropriate legal recourse.
 - (vi) All points on merits are kept open.
5. Rule is disposed of in aforesaid terms with no order as to costs.

[JITENDRA JAIN, J.]

[A.S. CHANDURKAR, J.]