

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 156 OF 2024

Sanjay Mahipati Lale

.. Petitioner

Versus

Learned District Collector, Kolhapur
and ors

.. Respondents

...

Mr. Prithviraj S. Gole for the petitioner.

Mr.Vishwanath Patil for respondent no.3 (MPCB)

Mr.Manoj Patil i/b Ms.Kalyani Mangave for respondent no.7.

Mr.O.A. Chandurkar, Addl. G.P with Mrs. N.M. Mehra, AGP for
respondent nos.1, 2, 5 and 8.

CORAM : ALOK ARADHE, CJ &
BHARATI DANGRE, J
DATED : 5th FEBRUARY, 2025

P.C:- (Per Bharati Dangre, J)

1. The petitioner, an ex-sarpanch of village Kadave, District Kolhapur, has filed the present PIL espousing the cause of the villagers in the said village, as regards the commercial activity which is being carried out at the instance of respondent nos.6 and 7, which is causing threat to the life of the villagers and also damaging the environment as it is being carried out flouting the rules and regulations formulated by respondent no.3. It is alleged that with the political connections of respondent nos.6 and 7,

they were successful in procuring a permission for starting stone crushing and tar hot mix plant and upon a resolution passed by Gram Panchayat and Gram Sabha, they were permitted to operate the same. It is also alleged that no objection was accorded even by the Maharashtra State Pollution Control Board (MPCB) for undertaking the said activity, which is alleged to be in flagrant violation of the mandate of law prohibiting such activities to be carried out in densely populated area.

2. With this grievance, when the petitioner approached this Court, notice was issued on 2/1/2025 and reference was made to the enquiry conducted by the Tasildar cum Taluka Executive Magistrate, Shahuwadi, pursuant to which a letter was written to the Collector on 20/6/2024, inviting his attention to large scale irregularities and illegalities by the parties running stone crusher.

The learned AGP produced before the Court a letter dated 1/7/2024 written by the Collector, Kolhapur to the Regional Officer of MPCB, apprising him of the said irregularities with a request to initiate appropriate action.

Noting that the Maharashtra Pollution Control Board on 4/11/2020 granted its consent to operate the project, but this was subject to certain conditions, and one of the conditions being “no stone crushing activity will be allowed within 1.0 km from National Highway, 500 km from State Highway and 200 km from Other Road such as Major District Road, other district road or village road. Also, crusher shall be located 500 m away from

human habitation, 500 m from sensitive area such as educational institution, hospitals, 500 m from place of historical monument identified by ASI". On perusal of the report, the Bench recorded thus:-

"If we peruse the report submitted by Tahsildar dated 28th June 2024, we find that all norms for running a stone crushing unit as per the consent to operate granted to the petitioner on 4th November, 2020 appear to have been violated. Running of stone crushing unit within the distance as prohibited in the consent to operate granted by MPCB can be most hazardous to the life of the residents residing in the vicinity and accordingly, such conditions of prohibition appear to have rightly put up by MPCB while granting its consent to operate the stone crushing unit.

However, despite clear mentioning of violation of norms, it appear that MPCB has not taken any action which we cannot approve in any circumstances.

In these circumstances, we call upon the Member Secretary, Maharashtra Pollution Control Board to look into the matter personally and take appropriate action which might be warranted under law in case violation of any law, rule or regulation or conditions of the consent to operate is found, By the next date, the Member Secretary shall file his personal affidavit giving the details of the action which might be taken to ensure compliance of this Court's order. We further provide that in case the Member Secretary is of the opinion that any adverse action is to be taken against the stone crushing unit, he shall provide an opportunity to the said unit of making representation."

3. In compliance to the aforesaid directions, the Member Secretary of the MPCB, Dr.Avinash Dhakane has filed an affidavit, stating that pursuant to the said order, respondent Board vide its letter dated 10/1/2025, asked its respective Officers and the Officers of M/s. Vision Stone Crusher to remain present for hearing and the hearing was conducted on 15/1/2025, 20/1/2025 and 3/2/2025.

During the course of hearing M/s.Vision Stone has also

produced certain documents from which it was observed by the Board that an application was made by it to the Regional Officer MPCB, Kolhapur on 22/10/2019, seeking consent to establish stone crusher by paying the necessary charges and on 9/6/2020, the consent to establish was granted u/s.25 of the Water (Prevention and Control of Pollution) Act, 1974 (for short “the Water Act”) and u/s.21 of The Air (Prevention And Control Of Pollution) Act, 1981 (for short “The Air Act”) and authorization under Rule of the "Hazardous Waste and Other (Handling and Transboundary Movement) Rules, 2016”.

The deponent of the affidavit also inform that the consent accorded has been renewed on 29/6/2024 which is valid upto 31/5/2026.

4. Pursuant to the complaint made by the petitioner to the respondent no.1, the respondent no.2 Tahsildar, Shahuwadi, submitted the report on 28/6/2024 to the respondent no.1 and a copy of the same was marked to MPCB, Kolhapur. Pursuant thereto, the officials of the Board investigated the complaint and when certain non-compliances were noticed, on part of M/s. Vision Stone Crusher operated by respondent nos.6 and 7, it issued a closure direction u/s.33A of the Water Act and 31A of the Air Act on 3/7/2024.

In pursuance of the said notice, the Officers of the Board conducted onsite visit on 22/8/2024, and on verifying the compliance made by M/s.Vision Stone Crusher, a conditional re-

start direction was issued on 7/10/2024 subject to the conditions stipulated therein. A copy of the said order is placed on record along with the affidavit.

As regards the allegation about the distance where the stone crusher unit can be located with reference to the circular dated 4/3/2020, the MPCB, in its affidavit, has stated that as per earlier circular dated 1/7/2003, if the road is a Major District Road (MDR)/Other District Road (ODR/Village Road (VR), stone crusher should not be allowed within 100 meters.

5. In compliance thereof, the Tahsildar, Shahuwadi was instructed to verify whether the nearest habitation to the stone crusher i.e. Khotwadi is having a census code or not, and it was communicated by the Tahsildar by his letter dated 3/2/2005 that human habitation at Khotwadi do not have a census code.

The affidavit also make the following statement :

"10 I say that pursuant to hearing dated 15/01/2025, 20/01/2025 & 03/02/2025 and after verifying all the documents and records available in the office and the documents submitted by the respondent no.6 and 7, it is observed that the Consent to establish was issued on the basis of then existing siting criteria as per circular dated 01/07/2003 & not on the basis of criteria dated 04/03/2020 and the revised siting criteria issued circular is applicable prospectively. Hence, the criteria mention in circular dated 01/07/2003 is applicable in instant case.

11 I say that after going through all above mentioned facts of the case and documents available on record, it is confirmed that the said Stone Crusher is not situated within 100 mtrs, distance from the nearest road (which was earlier ODR now MDR). Hence, the consent issued to the M/s. Vision stone crusher complies with distance & other conditions as per circular dated 01/07/2003 and there is no human habitation within this distance, having a census code. I say that the Regional Officer, Kolhapur is directed to regularly monitor and ensure compliance of consent conditions under Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Hazardous Wastes and other Wastes (Management, Handling & Transboundary

Movement) Rules, 2016.”

6. In the wake of the aforesaid stand adopted by the MPCB, when it has confirmed that the stone crusher of the respondent nos.6 and 7 is not situated in the prohibited area, in terms of the Circular dated 1/7/2003 which was in operation when the permission was granted, as it is reported that there is no human habitation within this distance with Census code, we do not deem it necessary to entertain the grievance of the petitioner.

In any case, the MPCB has now assured to supervise the activities of the respondent nos.6 and 7 and in fact, when it noticed some infraction, it had issued a closure direction, but on recording that the objections notified were duly complied with, a conditional re-start direction has been issued.

7. In the wake of the aforesaid, since the petition has served its purpose, we do not deem it necessary to keep the Public Interest Litigation pending. However, we expect the MPCB to act with promptitude, whenever any infraction in the operation of respondent nos.6 and 7 comes to its notice and also when any grievance come from the villagers.

With the aforesaid, Public Interest Litigation stand disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)