

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

WRIT PETITION NO.5283 OF 2024

M/s. S.S. Services

....Petitioner

versus

Central Control Pollution Board & Ors.

....Respondents

Dr. Abhinav Chandrachud with Mr. Vinod Sangvikar, Mr. Saurish Shete and Mr. Yogesh Morbale i/b Ms. Shakuntala Sangvikar, *for Petitioners.*

Ms. Rajashri Karande, *for Respondent No.1/CPCB.*

Ms. Neha Bhide, Government Pleader, with Mr. O.A. Chandurkar, Additional GP and Ms. G.R. Raghuwanshi, AGP *for Respondent No.2/State.*

Mr. Jitendra Jagtap, *for Respondent No.3/MPCB.*

Mr. Yuvraj Narvankar *for Respondent No.4.*

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATE : 16 JUNE 2025.

Oral Order (Per : Sandeep V. Marne, J.):

1. Petitioner has filed the present Petition challenging the decision of Respondent No.3-Maharashtra Pollution Control Board(MPCB) granting consent to Respondent No.4 to operate a common Bio-medical waste treatment facility in Kolhapur district.

2. It is the case of the Petitioner that three facilities for Bio-medical waste treatment are already available in Kolhapur district, which already have excess capacity to fulfill the next 10 years requirement considering the growth in the Bio-medical field. Two out of the said three facilities are being operated by the Petitioner. Respondent No. 4 applied for grant of approval for setting up of Bio-medical facility in the Kolhapur district. Consent committee in its meeting held on 25 January 2023 decided to approve consent in favour of Respondent No. 4 for setting up its Bio-medical waste treatment plant. Accordingly, consent was issued in favour of Respondent No. 4 on 30 June 2023. Petitioner filed complaints dated 19 July 2023 and 25 July 2023 before Respondent Nos. 2 and 3 challenging the consent issued in favour of Respondent No. 4. Since the complaints were not being decided, Petitioner filed Writ Petition No. 10808 of 2023 challenging the consent dated 30 June 2023 issued in favour of Respondent No. 4. The Petition was disposed of by directing Respondent No.3 to conduct hearing and decide Petitioner's representation dated 19 July 2023. After conducting hearings impugned order dated 27 February 2024 is passed upholding the consent issued in favour of Respondent No. 4 and rejecting Petitioner 's representation. The present Petition is filed challenging the impugned decision dated 27 February 2024 as well as consent dated 30 June 2023.

3. There is alternate and equally efficacious remedy available to the Petitioner to file appeal before the National Green Tribunal

under the provisions of Section 16 of the National Green Tribunal Act, 2010. In the light of availability of such alternate remedy, we are not inclined to entertain the present Petition.

4. Dr. Chandrachud, the learned counsel appearing for the Petitioner would rely upon provisions of Rule 7(3) of the Bio-Medical Waste Management Rules, 2016(Rules of 2016) imposing restriction on setting up new waste treatment facilities within the radius of 75 km from existing facility. We do not see any reason why Petitioner cannot raise the said point before the Tribunal and why the Tribunal cannot decide the same. In our view therefore, Petitioner needs to exercise the alternate remedy of filing appeal before the Tribunal and on that count, we are not inclined to entertain the present Petition.

5. Petition is accordingly disposed of by granting liberty to the Petitioner to file appeal before the Tribunal for challenging order dated 27 February 2024 and consent dated 30 June 2023. Petitioner would be at liberty to raise the ground of violation of Rule 7(3) of Rules of 2016 in its appeal.

6. All contentions of parties on merits are expressly kept open to be decided by the Tribunal. Period spent in prosecuting the Petition shall be considered under the provisions of Section 14 of the Limitations Act, 1963.

7. With the above directions the Writ Petition is **disposed** of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)

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signed by
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