

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO.5225 OF 2025
IN
PUBLIC INTEREST LITIGATION NO.50 OF 2023**

SMS Envoclean Private Limited

.. Applicant-Org. Resp. No.5

In the matter between

Govandi New Sangam Welfare Society

.. Petitioner

Versus

The State of Maharashtra,

Through the Ministry of Environment & Ors... Respondents

And

The Chief Executive Officer,

Maharashtra Industrial Development

Corporation & Anr.

.. Formal Respondents

Mr. Aspi Chinoy, Senior Advocate, with Mr. R.S. Kohli, Ms. Nikita K. Dharamshi, Ms. Shivani Bhatia, Advocates, i/by C.K. Legal, for the Applicant-Original Respondent No.5.

Mr. Zaman Ali, Advocate for the Petitioner.

Mr. Milind More, Additional Government Pleader for Respondent No.1-State of Maharashtra.

Mr. Akshay Pansare, i/by Mr. Sachindra B. Shetye and Mr. Nipun Sawane, Advocates for Respondent Nos.2 and 3 – MPCB.

Ms. Oorja Dhond, i/by Ms. Komal Punjabi, Advocates for Respondent No.4 – MCGM.

Mr. C.M. Lokesh, Advocate for Respondent No.6 – CPCB.

Ms. Shraddha Dubepatil, Advocate, i/by Jay & Co., for Respondent No.7 – MIDC.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 16TH OCTOBER 2025.

Per Gautam A. Ankhad, J.

The applicant was arrayed as respondent no.5 in the Public Interest Litigation. The present Interim Application has been filed in the disposed of petitions on account of events that have transpired after the passing of the order dated 11th September

2023. By the aforesaid order, this Court had directed the applicant to commission a new incinerator facility for treatment of bio-medical waste within a period of two years from the date of the said order. The relevant portion of the order reads as under: –

“4. The Court in its order dated 11th August 2023 had noted a tentative timeline given by the respondent no.5 for establishment of the new incinerator at a different place. Having considered the said timeline, the Court had directed the Member Secretary of the MPCB to hold a meeting with the representative of the respondent no.5 along with the representative of the MCGM to find out as to how 13 months’ period likely to be taken for completion of construction of plant from the date of grant of environmental clearance can be reduced. Pursuant to the said order, a meeting of the officers along with the representative of the respondent no.5 was held on 22nd August 2023, wherein following decisions have been taken:

Sr.No.	Points	Decision
1.	Obtaining the plot in MIDC area	M/s. SMS Envoclean Pvt. Ltd. shall expedite the payment to MIDC for allotment of the plot at the earliest.
2	MPCB to consider and take decision on the Application for C to E with expedition.	The Member Secretary, MPCB has directed M/s. SMS Envoclean Pvt. Ltd. to immediately apply for Consent to Establish for setting up of Bio-Medical Waste Treatment Facility at Patalganga – Borivali, MIDC area. Thereafter, MPCB will issue Consent to Establish on priority.
3.	The Hon’ble High Court also directed that a decision for grant of EC by the SEIAA/SEAC shall also be given in the minimum possible time.	M/s. SMS Envoclean Pvt. Ltd. informed that they will carry out Rapid EIA Study as per Guidelines issued by MoEF & CC, Govt. of India of the land at Patalganga-Borivali, MIDC area immediately once the plot is allotted and submit the application for Environmental Clearance to the Competent Authority.
4.	To reduce the period of 13 months for construction of the plant.	M/s. SMS Envoclean Pvt. Ltd. shall reduce the timeline for establishment and commissioning of CBMWTSDF to 12 months after obtaining all the statutory permissions from the Government Agencies.

“5. Accordingly, it appears that the respondents are moving in the direction of setting up the new incinerator which is likely to reduce the pollution level in the area. Once of the decisions taken in the said meeting is that the period likely to be taken in

construction of plant has been reduced from 13 months to 12 months. It has been informed by Shri Chinoy, learned senior counsel, representing the respondent no.5, that the payment to Maharashtra Industrial Development Corporation (MIDC) for allotment of the plot has already been made and further that directions have been issued by the MPCB to respondent no.5 to make application seeking consent to establish the bio-medical waste treatment facility at Patalganga-Borivali. In the meeting it was also decided that MPCB shall issue consent to establish the said facility on priority basis.

6. As regards the Environmental Impact Assessment (EIA) study, it has been informed by the learned senior counsel representing the respondent no.5 that immediately after the monsoon, the study shall be taken up and necessary application shall be made seeking environmental clearance to the State Environment Impact Assessment Authority/State Environment Impact Assessment Committee.
7. In view of the aforesaid, we direct that the new incinerator facility shall be commissioned within two years from today. All the authorities, including respondent no.5, shall be held accountable in case there is any lapse on their part in establishing the new incinerator facility within two years from today.
8. We also direct that in the meantime the regular monitoring of the pollution levels in the area and also monitoring of the present plant shall be carried out by the MPCB not only using the online process but also by physical inspection of the site regularly, say on monthly basis.
9. So far as the prayer made in the PIL petition relating to environmental compensation is concerned, in our considered opinion, the issue can be better adjudicated by the National Green Tribunal (hereinafter referred to as "the NGT"). Thus, for prayer clause (b), which is extracted hereinbelow, we leave it open to the petitioner to approach the NGT where it will have all the pleas available to it to be raised.
 "(b). That this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ order or direction directing respondent no.3 to impose appropriate environmental compensation on respondent no.5 under the Polluter pays principle, as per the formula fixed by CPCB's 2019 Guidelines on imposition of environmental compensation and collect the same for the purposes of improving the environment in Govandi in a time-bound manner."
10. We further provide that in case the petitioner approaches the NGT for grant of above quoted prayer (b), the proceedings before the NGT shall be expedited and completed as early as possible, in accordance with law.
11. We make it clear that we have not made any observation as to the merit of the claim of the parties so far as prayer clause (b) is concerned, which shall be adjudicated by the NGT after hearing and giving opportunity to present their respective cases, to the respective parties.
12. The PIL petition stands disposed of in the aforesaid terms."

2. Mr. Chinoy, learned senior counsel for the applicant, has taken us through the events that have transpired after 11th September 2023 and the steps taken by the applicant to set up the facility. He submitted that the land allotted at Patalganga was cancelled by the MIDC, and in its place on 3rd October 2024 an alternate parcel of land was allotted at Jambivali Industrial Area. The possession letter was issued by the respondent no.7 on 20th December 2024. After this initial delay, respondent no.7 has failed to complete the basic infrastructure facilities such as road connectivity, electricity, and water supply. The delay is admitted by respondent no.7, who has filed an affidavit dated 15th October 2025 *inter alia* stating that the infrastructure work at the Jambivali Industrial Area is in progress and is expected to be completed within a period of nine months. The applicant, on the other hand, has diligently pursued all necessary steps, including obtaining requisite approvals, to ensure that the incinerator facility is commissioned within the time stipulated by this Court's order dated 11th September 2023. It was submitted that the delay is not attributable to the applicant. Accordingly, it was prayed that time be extended enable the applicant to commission the new facility at the Jambivali site.

3. Mr. Zaman Ali, learned counsel for the original petitioner–Society, submitted that the delay in commissioning the incinerator facility is causing grave inconvenience to a large number of residents in the vicinity. He submitted that the continued non-operation of the facility is a major source of pollution and public health concern and pressed for costs for the continuing pollution and damage caused to the environment.

4. Ms. Shraddha Dubepatil, learned counsel for respondent

no.7 relied upon the respondent no.7 affidavit dated 15th October 2025 and submitted that the Jambavali Industrial Area is not yet developed and the infrastructure development works are still in progress. The contractor, M/s.Govardhani Construction Company, by its letter dated 4th July 2025 has sought extension of time from April 2025 to August 2026 to complete the balance works.

5. We have heard the learned counsel appearing for the parties. The material placed on record demonstrates that the facility was relocated from the Patalganga–Borivali Industrial Area to its present site at Jambivali, owing to the absence of any nearby habitation. Thereafter, the applicant obtained several statutory permissions and has expressed its readiness to commission the facility at the Jambivali Industrial Area. However, the commissioning could not be achieved on account of the lack of requisite infrastructure and the admitted delay in its completion at the Jambivali site. Respondent No.7, in its affidavit, has candidly stated that the infrastructure work is still in progress and is expected to be completed within a period of nine months from today.

6. In the aforesaid circumstances, we are of the view that the applicant has made out sufficient cause for grant of extension of time. The delay in establishing the facility is evidently attributable to the ongoing infrastructure development works at the site, which are beyond the control of the applicant. Accordingly, in exercise of the powers conferred under Article 226 of the Constitution of India, we modify the directions contained in paragraph 7 of this Court's order dated 11th September 2023 passed in Public Interest Litigation (Lodging) No. 33884 of 2022, and extend the period for commissioning of the incinerator facility at the Jambivali Industrial Area to a total of twenty-one months from today —

comprising nine months for Respondent No.7 to complete the infrastructure work and a further twelve months for the applicant to establish and commission the facility. The applicant shall deposit by way of charity ₹2,00,000/- with the “*Victoria Memorial School for the Blind, A/c. No.918010096832423, IFSC Code : UTIB0001345, Branch : Tardeo, Mumbai*” within a period of four weeks from today.

7. Insofar as the submission advanced by Mr. Ali with regard to compensation is concerned, we note that liberty has already been granted to the petitioner under paragraph 9 of the order dated 11th September 2023 to approach the National Green Tribunal. Hence, no further directions are warranted in that regard.

8. Interim Application No.5225 of 2025 in Public Interest Litigation (Lodging) No. 33884 of 2022 stands disposed of in the above terms.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]

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