

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Appeal No. 08/2023
(I.A. No. 437/2023)

Mrs. Kaneez

Appellant

Versus

Delhi Pollution Control Committee

Respondent

Date of hearing: 15.05.2023

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Appellant: Mr. S.A. Khan, Advocate

ORDER

1. Grievance in this appeal is against levy of compensation of Rs. 2 lac on polluter pays principle by DPCC vide order dated 13.07.2020, followed by order dated 01.04.2022 rejecting the representation of the appellant for reconsideration of order dated 13.7.2020 for the reasons mentioned in the said representation.

2. We have heard learned Counsel for the appellant and perused the record.

3. The impugned order is that M/s Hanif Electroplating Works, F-115, Gali No. 4, Shastri Park, Shahdara, Delhi- 110032 was found operating in violation of Delhi Master Plan and without requisite consent under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. For said violation, compensation of Rs.

2 lakhs was being levied. The appellant filed a representation for setting aside the said order pointing out that the unit was not in operation since 2004 and had been shifted to Nariana Industrial Area. Thereafter, ground floor of the building was sealed on 20.11.2018. The said representation was rejected on 1.4.2022 without considering the case of the appellant set out in the representation. The appellant filed *W.P.(C) 8611/2022, Kaneez vs. Delhi Pollution Control Committee* before the Delhi High Court against order of DPCC dated 01.04.2022 with further prayer for de-sealing. The High Court disposed of the writ petition *inter-alia* with following observation:-

“6. The Petitioner is free to avail of her remedies in accordance with law including before the NGT as also for seeking de-sealing of the property after issue of environmental compensation is determined.”

4. We have considered the matter. There is delay of 55 days in filing the appeal. Having regard to the facts and circumstances of the case, the delay is condoned.

5. On merits, it is argued that the Appellant is widow of late Mohd. Hanif who was running the business and who has since died on 07.06.2019. No business is in operation since 2004. The building is lying sealed since 20.11.2018. These facts were pointed out in the application for setting aside the order dated 13.07.2020 but DPCC without going into said questions rejected the application.

6. We find that though the appellant has stated that no activity is taking place since 2004, it is undisputed that activities of electroplating were earlier going on in breach of environmental norms, particularly requirement of consents under the Water Act and Air Act. Thus, on own showing of the appellant, activities of the appellant did violate environmental norms for which compensation could be levied. Only

question is quantum of compensation. There is no consideration of the stand of the appellant that activities stopped in 2004 and sealing took place in 2018.

7. Taking above facts and circumstances into account, we consider it appropriate to partly allow the appeal and reduce the amount of compensation to Rs. 25000/- to be paid within two months. In default, it will be open to DPCC to take coercive measures as per law. I.A. will also stand disposed of.

8. Since the above order is being passed without hearing DPCC, it will be open to DPCC to move this Tribunal, if aggrieved.

Adarsh Kumar Goel, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

May 15, 2023
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SN