

Item No. 3

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 522/2022

Bhushan Kumar

...Applicant

Versus

Govt. of NCT of Delhi & Ors.

...Respondents

Date of hearing: 18.09.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None.

Respondents: Ms. Jyoti Mendiratta, Advocate for Respondents No. 1
and 2-GNCTD and DM (Central), Delhi (through VC).
Mr. Naresh Kumar, Tehsildar Karol Bagh.
Mr. Chhaju Ram, Respondent no. 4-Project Proponent
in Person

Application is registered based on a letter petition received by Post.

ORDER

1. Mr. Bhushan Kumar resident of 14-B/29, Dev Nagar Pyare Lal Road Karolbagh, New Delhi, has sent the present letter petition, which is treated and registered as original application, complaining that illegal scrap unit is being operated in residential area of Dev Nagar, Pyarelal road, Karol Bagh, New Delhi. The project proponent is also doing Iron welding business in the said unit. Grinder, cutter, fire producing instruments cause noise and air pollution in the area. The project proponent purchases old copper and silver wires and burns them under the trees for extraction of metals which causes dense smoke of poisonous gases in the area creating respiratory problems to the inhabitants of the locality and dries up the green trees. On 22.03.2022

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the project proponent burnt lot of wires which caused dense smoke due to which fire brigade was summoned which doused the fire. The Police also reached but did not take any action.

2. Vide order dated 02.09.2022, this Tribunal Constituted a Joint Committee comprising of representative of the Delhi Pollution Control Committee (DPCC) and Deputy Commissioner (Central), Delhi with direction to submit report within one month and send the copies of the report of the Joint Committee to the Project Proponent/Statutory Authorities. However, report of the Joint Committee has not been received sofar.

3. In compliance of order dated 02.09.2022 report has been filed by DPCC vide email dated 05.01.2023 and the District Magistrate (Central) Delhi vide email dated 24.01.2023.

4. The relevant part of the report of the DPCC is reproduced below:-

“ACTION TAKEN REPORT ON BEHALF OF DELHI POLLUTON CONTROL COMMITTEE IN COMPLIANCE TO THE ORDER DATED 02.09.2022.

2. *That, DPCC issued a letter on 12.09.2022 to DM(Central) to nominate a representative for a Joint inspection to be carried out in terms of Hon'ble Tribunal order dated 02.09.2022. No response received from the side of. Deputy Commissioner (Central), so far. Copy of the letter dated 12.09.2022 is annexed herewith as ANNEXURE-1.*

3. *That an inspection of the site was carried out on 10.11.2022 by the DPCC officials. During the inspection it was observed that:*

- *Unit was found operational engaged in the activity of scrap shop including segregation, cutting and welding of metal scrap etc. with light engineering work.*

- *Scrap found stored on public road and also found stored at CPWD premises, Double Story Quarters, Block 13, Pyarela Road, Karol Bagh*

- *unit is operating without obtaining Consent from DPCC.*

- *Sign of burning/ ash residue also observed at CPWD premises.*

Copy of the inspection report dated 10.11.2022 alongwith photographs are enclosed herewith as ANNEXURE-2.

4. *That, DPCC issued a show cause notice on 27.12.2022 for imposing Environmental Damages Compensation to "Sh.*

Sandeep (Owner)" to the tune of Rs. 40,000/- (Rupees Forty thousands). Copy of the show cause notice dated 27.12.2022 is annexed herewith as ANNEXURE-3.

5. *That, DPCC has also issued direction u/s 31(A) of the Air Act, 1981 on 27.12.2022 to The Commissioner (MCD) to take necessary action for closure of the unit. The area where activity is being carried out a residential area. The Chief Secretary, Delhi in compliance of the directions of the Hon'ble Supreme Court dated 07.05.2004 in WP(C) 4677/ 1985 decided that action on industries operating in non-confirming areas and violation Master Plan of Delhi will be taken under the Delhi Development Act by DDA in development areas and MCD in other areas. DPCC acts under the provisions of Environmental Laws only on legal units. Copy of the direction dated 27.12.2022 is annexed herewith as ANNEXURE-4.*

6. *That, DPCC also issued a letter on 27.12.2022 to CPWD to take necessary steps for stopped of illegal entry/ garbage burring in your land/ premises by making proper boundary/ Gate and to keep a constant vigil of the site and submitted action taken report at the earliest. Copy of the letter dated 27.12.2022 is annexed herewith as ANNEXURE-5."*

5. The relevant part of the report of the SDM, Karol Bagh is reproduced below:-

"Action Taken report on behalf of the District Magistrate (Central) in compliance fo the order dated 02.09.2022.

X X X X
6. *A team consisting of SDM(Karol Bagh), Tehsildar (Karol Bagh) and others inspected the polluting unit on 24.01.2023 and found that it was not just functional but also encroaching upon the footpath across the road and had not even deposited the penalty of Rs. 40,000/- (E.C imposed by the DPCC)*

7. *The unit was sealed by the SDM, Karol Bagh immediately. (ANNEXURE-I)*

8. *The local police authorities were also informed of the sealing and the report has been lodged vide GD No.0039A dated 24.01.2023. (ANNEXURE-II)*

9. *Apart from this, a challan of Rs. 1,00,000/- (Rupees One Lac Only) was also imposed for encroaching upon the public land i.e. footpath across the road as well as the area in front of his shop as well as causing air and noise pollution. (ANNEXURE-III)*

6. Notices were ordered to be issued to respondents no. 1 to 4 and pursuant to service of notice report has been filed by DPCC vide email dated 05.01.2023 and status report has been filed by SDM, Karol Bagh vide email dated 16.09.2023.

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7. Pursuant to notice, report has been filed by DPCC vide email dated 22.03.2023 and Status Report has been filed by SDM, Karol Bagh vide email dated 16.03.2023. The relevant part of the report of the DPCC is reproduced as under: -

“STATUS REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE IN COMPLIANCE TO THE ORDER DATED 25.01.2023.

X X X
4. That, DPCC issued a show cause notice on 27.12.2022 for imposing Environmental Damages Compensation qua "Sh. Sandeep (Owner)" to the tune of Rs. 40,000/- (Rupees Forty thousands), as the project proponent found engaged in the activity of storage, segregation, cutting, welding of metal scrap and light engineering works. In response to the show cause notice, unit has submitted a reply interalia stating that tools related to light engineering works and welding has been removed and also deposited EDC of Rs. 40,000/- vide DD No. 554416 dated 14.02.2023. MCD licence was also obtained. Copy of the reply dated 14.02.2023 alongwith its enclosures are collectively annexed herewith as ANNEXURE-1.

5. That DPCC issued directions to the MCD and CPWD in this matter (which were enclosed with the ATR dated 005.01.2023). No response received from CPWD/ MCD so far”

8. The relevant part of the report of the SDM Karol Bagh is reproduced below:-

“That a copy of the order dated 25.01.2023 has been served to Sh. Chajju Ram.
·He has already paid Rs. 40,000/- as fine which was imposed by the DPCC
·He has also made a part payment of Rs 10,000/- out of the penalty imposed of Rs 1,00,000/- on him.
·He has also filed an affidavit stating that, he will not encroach on Public Land, make another payment of Rs 40,000/- and he will not indulge in any such work, in future. (Annexure-I)”

9. Pursuant to service of notice, respondent no. 4- the Project Proponent has appeared in person and seeks time to file his reply/response. Reply/response on behalf of the Project Proponent be filed within two months by way of email at judicial-ngt@gov.in preferably

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in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

10. In view of the facts and circumstances of the case, presence of CPWD and MCD is essential for just and fair adjudication of the questions involved in the case. Accordingly CPWD and MCD are impleaded as respondents no. 5 and 6. The Registry is directed to amend the memo of parties and issue notices to respondents no. 5 and 6 requiring them to file their reply/response within two months by way of email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

11. Amount of Rs. 40,000/- has been recovered by the DPCC as environmental compensation. The DPCC is directed to submit its Action Plan, within two months by way of email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF, for utilization of the amount of environmental compensation recovered from the Project Proponent.

12. List for further consideration on 20.11.2023.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

September 18th, 2023
AG