

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

Original Application No. 707/2023

Saira Begum

Applicant

Versus

Govt. of N.C.T. of Delhi & Ors.

Respondent(s)

Date of hearing: 04.02.2025

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

Applicant: Ms. Mansi Chahal, Adv. for Applicant

Respondents: Ms. Suman Arora, Adv. for CPCB
Mr. Kush Sharma, Mr. Nishchaya Nigam & Ms. Vagmi Singh, Advs. for
DPCC (Through VC)
Mr. Rahul Kinra & Ms. S. Akshata, Advs. for R - 5
Mr. Pradeep Chowdhary, Mr. Mohammad Anas & Mr. Gaurav Kapoor,
Advs. for R - 7 to 19

ORDER

1. In this original application, Applicant has raised a grievance that Respondents No. 7 to 19 are polluting 'red' category units which are operating in blatant violation of environmental norms in the residential area of Gali Kuan Wali, Lal Darwaza, Sirki Walan, Lal Kuan, Delhi 110006.

2. The allegation of the Applicant is that these units are operating in the residential area and they are engaged in the process of washing and polishing of nuts and bolts by using of hydrochloric acid (HCL). It is further the grievance of the Applicant that none of these respondents have installed any anti-pollution devices in their factories, and these units are operating 24 hours a day, causing environmental damage. It is also the allegation of the Applicant that these units are operating without

any permission under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 from the Delhi Pollution Control Committee (DPCC) and they are withdrawing water from the illegal borewells. The Applicant alleges that these units are directly discharging their effluent/used HCL acid either into the drain or on open land, damaging the environment and creating health hazards.

3. The Tribunal by order dated 28.11.2023, while issuing notice to the respondents, had constituted a three-member joint Committee which has submitted the report through the DPCC on 02.02.2024.

4. It is undisputed that as per the Master Plan of Delhi (MPD, 2021) and the order of the Hon'ble Supreme Court dated 07.05.2004 in IA No. 22 in WP (C) No. 4677/1985, in the matter of *M.C. Mehta vs. Union of India & Ors.*, no industry can be allowed to establish/operate in the residential areas in the National Capital Territory (NCT) of Delhi.

5. The report of the Joint Committee reveals that the joint Inspection was done on 12.01.2024, and action was taken against Respondents No. 7, 9, 11, 14 and 17. The details of the actions are as under:

“Date of Joint Inspection:12.01.2024

S. No.	Name of the owner/Occupier of premises	Respondent No.	Observation made during Joint Inspection	Action taken/Remarks
1.	Shamshad (Owner)	14	Date of inspection: 12.01.2024. Permanent wall found erected inside the premises.	Premises sealed and electricity disconnected.
2.	Abid (Owner)	09	Date of inspection: 12.01.2024. Premises found locked and owner/occupier not opened the gate.	Premises sealed and electricity disconnected.

3.	Arif and Mujahid (Owner)	07	Date of inspection: 12.01.2024. During inspection premises was found vacant. However, permanent wall found erected inside premises.	Premises sealed and electricity disconnected.
4.	Sajid Mirza (Owner)	11	Date of inspection: 12.01.2024. Borewell found exist inside the premise. Equipment related to Electroplating process. found exists.	Premises sealed and electricity disconnected.
5.	Iqbal (Owner)	17	Date of inspection: 12.01.2024. Wall found erected at the main gate. Neighbours informed owner of premises refused and did not cooperate with join team. Notice for inspection served/pasted on wall of premises for 29.01.2024.	Water supply disconnected on the spot.

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6. The report further reflects that another joint inspection was done on 29.01.2024 in respect of the remaining units and the premises were found to be vacant. The details of which are as under:

“Date of Joint inspection: 29.01.2024

S. No.	Name of the owner/Occupier of premises	Respondent No.	Observation made during Joint Inspection	Action taken/Remarks
5.	Iqbal (Owner) (Re-inspected)	17	Date of Inspection: 29.01.2024 Premises found vacant	Water supply already disconnected on 12.01.2024.
6.	Rasis (Owner)	08	Date of Inspection: 29.01.2024 Premises found vacant	No action required
7.	Babuji(Tenent)	10	Date of Inspection: 29.01.2024 Premises found vacant	No action required
8.	Saify (Tenant)	12	Date of Inspection: 29.01.2024	No action required

			<i>Premises found vacant</i>	
9.	<i>Dhorab (Tenant)</i>	13	<i>Date of Inspection: 29.01.2024 Premises found vacant</i>	<i>No action required</i>
10.	<i>Mujahid (Owner)</i>	15	<i>Date of Inspection: 29.01.2024 Premises found vacant</i>	<i>No action required</i>
11.	<i>Daniyal (Owner)</i>	16	<i>Date of Inspection: 29.01.2024 Premises found vacant</i>	<i>No action required</i>
12.	<i>Shababuddin (Tenant)</i>	18	<i>Date of Inspection: 29.01.2024 Premises found vacant</i>	<i>No action required</i>
13.	<i>Asad (Tenant)</i>	19	<i>Date of Inspection: 29.01.2024 Premises found vacant</i>	<i>No action required</i>

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7. The joint Committee has made the following recommendations:

“3. Recommendations of the Joint Committee

- i. As per the modified directions dated March 07, 2016 issued under section 18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 by CPCB to SPCBs/ PCCs), the "Industry or process involving metal surface treatment or process such as pickling/ electroplating" are categorized under 'Red' category and shall obtain CTE & CTO from the concerned SPCBs/PCCs.*
- ii. As per the Master Plan of Delhi (MPD)- 2021 and Hon'ble Supreme Court order dated 07.05.2004 in IA No. 22 in WO(C) No. 4677 of 1985 titled as M. C. Mehta Vs. UOI & Ors., no industry is allowed to establish/ operate in residential areas in National Capital Territory (NCT) of Delhi. The MCD, being the concerned authority shall take necessary action on such units in residential/non-conforming areas.*
- iii. Strict and constant vigil through regular inspections by local administration in the alleged area to stop such illegal activities.”*

8. The DPCC has also filed a separate report dated 02.02.2024 containing the details of the joint inspection and the action taken by the joint Committee. In the report of DPCC, the details of the order passed by Hon'ble Supreme Court directing closure of the unauthorized industries in non-conforming areas of Delhi and the concerned authorities responsible to ensure it have been disclosed as under:

“xxxxxx.....xxx

5. That the Hon'ble Supreme Court has passed a judgment on 07.05.2004 in I.A. No 22 in WP(C) No. 4677 of 1985 titled as "M.C. Mehta Vs. Union of India & Others" for closure of the illegal units from the residential / non-conforming areas in NCT of Delhi. As per the said judgment, all industrial units that have come up in residential / non-conforming areas in Delhi on or after 1st August, 1990 shall close down. Further, Hon'ble Court vide above said Judgment also appointed a Monitoring Committee comprising of:

- (i) Chief Secretary of Delhi,
- (ii) Commissioner of Police, Delhi
- (iii) Commissioner, Municipal Corporation of Delhi,
- (iv) Vice Chairman of Delhi Development Authority

and made this Committee responsible for stoppage of illegal industrial activity in the NCT of Delhi. Industries Department, Govt. of NCT is the Nodal Department.

During the meetings held before the Chief Secretary, Govt. of NCT of Delhi on 08.12.2010 and 05.06.2015, it has been decided that action on industries operating in non-conforming areas and violating the Master Plan of Delhi will be taken under the Delhi Development Act by the Delhi Development Authority in development areas and Municipal Corporation of Delhi in all other areas.

Moreover, the order dated 04.11.2019 passed by Hon'ble Supreme Court in aforementioned it was decided that closure of industries in unauthorized/illegal industries in Non-Conforming areas of Delhi is the responsibility of Zonal Dy. Commissioners of Municipal Corporations.”

9. The Respondents No. 7 to 11 have filed their reply dated 11.04.2024 raising the objection that the husband of the Applicant had earlier filed OA No. 904/2022 involving the same issue in respect of the same respondents, which was disposed of by the Tribunal by order dated 21.10.2023. They have also made an allegation about the attempt to extract benefit by the Applicant but no supporting material such as complaint to the police etc. has been placed on record.

10. Since this OA is by a different legal person, therefore, bar of *res-judicata* will not be attracted. Even otherwise, in environmental issue, if any fresh cause of action arises, fresh OA can always be entertained.

11. The DPCC has filed the reply dated 15.10.2024 disclosing the details of imposition of environmental compensation as under:

“xxxxxx.....xxx

4. *That, in the report dated 22.07.2024 the total figure of show cause notice may be read as 04, but inadvertently due to typographical error it was mentioned as 05 in place of 04. It is most respectfully submitted that respondent number 17 was found closed due to brick wall in the inspection dated 12.01.2024, therefore a notice for inspection was issued. The site of respondent number-17 was re-inspected by same joint team on 29.01.2024 and it was found that a premise was vacant and no industrial activity was found in existence on 29.01.2024.*

5. *That, despite service, none of the respondent has submitted any reply/response, therefore DPCC has issued order dated 10.09.2024 for confirmation of Environment Damage Compensation (EDC) of Rs. 10 Lakhs each on 03 units (having respondent number 7, 9, and 14) for illegal operation of Electroplating units in non-conforming area, without pollution control device and mandatory consent. Copies of the order for confirmation of Environment Damage Compensation (EDC) dated 10.09.2024 are enclosed herewith as **ANNEXURE-1 (Colly)**.*

6. *That, further despite service, respondent number 11 has also not submitted any reply/ response, therefore DPCC has issued order dated 10.09.2024 for confirmation of Environment Damage Compensation (EDC) of Rs. 12 Lakhs for illegal operation of Electroplating units in non-conforming area, without pollution control device and mandatory consent as well as extracting ground water without valid permission. Copy of the order for confirmation of Environment Damage Compensation (EDC) dated 10.09 2024 is enclosed herewith as **ANNEXURE-2**”*

12. A separate reply has been filed by Respondent No. 5, BSES Yamuna Power Limited, stating that it has a limited role in the matter in respect of the disconnection of electricity. Referring to the report of the DPCC, it has taken the stand that permanent walls were found to be erected inside some of the units, and electroplating activities were taking place behind the said walls.

13. On the analysis of the above report, we find that based on the inspection by the joint Committee formed by the Tribunal, five private respondents were found to be violating the norms and the action of

sealing the premises and disconnection of electricity has already been taken against them. The DPCC has passed the order dated 10.09.2024 for the imposition of environment damage compensation of Rs. 10 lakhs on each of three units (Respondents No. 7, 9 and 14) for illegal operation of electroplating units in non-conforming area without pollution control device and mandatory consent. DPCC has also passed order dated 10.09.2024 for confirmation of the environment damage compensation of Rs. 12 lakhs for illegally operating electroplating units in non-conforming area as against Respondent No. 11.

14. Thus, we require the DPCC to take expeditious steps for the recovery of environmental compensation, which has already been imposed. The DPCC will also carry out the periodical surprise inspection of the area concerned to ascertain, if any, such unit is illegally operating without complying with the environmental norms. It is the responsibility of the DPCC to ensure that no such unit without necessary permission and in violation of the order of the Hon'ble Supreme Court operates in the non-conforming area.

15. The OA is accordingly disposed of.

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 04, 2025
Original Application No. 707/2023
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