

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

Appeal No. 07/2023
(I.A. No. 430/2023)

M/s. Moon Process

Appellant

Versus

Uttar Pradesh Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 04.10.2023

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER=
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Pramod Kumar Aggarwal, Adv. for Appellant in Appeal No. 07/2023
(Through VC)

Respondent: Mr. Abhishek Chaudhary, Adv. for HPDA
Mr. Ankit Verma, Adv. for the State of Uttar Pradesh (Through VC)
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB (Through VC)

ORDER

1. This Appeal under Section 18 (1) read with Section 16 of the National Green Tribunal Act, 2010 is preferred against the order dated 12.12.2022 passed by the Chief Environment Engineer (Circle-1) Uttar Pradesh Pollution Control Board.

2. Since there is a delay in filing this Appeal, therefore, I.A. No. 430/2023 has been filed seeking condonation of delay. For the reasons assigned in the application, we find that sufficient ground is made out to condone the delay. Accordingly, I.A. No. 430/2023 is allowed and delay in filing the Appeal is condoned.

3. By the impugned order, the Appellant has been directed to close the unit M/s Moon Process having been found to be running illegally and further direction is to disconnect the electricity, water and stop all the facilities.

4. By the same order, Appellant has been given an opportunity to clarify as to why the environmental compensation of Rs. 10,12,500/- (Rupees Ten Lakh Twelve Thousand Five Hundred only) for the default of 162 days be not imposed on the basis of the guidelines framed by the Central Pollution Control Board.

5. The brief background of the matter is that O.A. No. 555/2022 was registered on the basis of a letter petition sent by the residents of Village Pratapur, District Hapur, Uttar Pradesh making an allegation that Appellant was operating by violating the environmental norms and was causing health hazard to the local residents. The Tribunal by order dated 06.09.2022 had formed a joint committee with the following directions:-

“3. Prima facie, the averments made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the averments made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position. Accordingly, we constitute a Joint Committee comprising of representative of State PCB, and District Magistrate, Hapur and direct the same to meet, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position and submit its report within one month by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. The State PCB will be the nodal agency for coordination and compliance.

4. In case the Joint Committee observes any violation of consent conditions/environmental norms, then it shall forward a copy of its report to:-

(i) the Project Proponent to enable it to comply with the recommendations in its report or file objections against its observations/recommendations and file its response before this Tribunal as desired within one month from the date of receipt of a copy of the report of the Joint Committee; and

(ii) the State PCB and District Magistrate, Hapur to enable them to take appropriate remedial action by giving notice to/hearing the project proponent and following due process of law in accordance with Statutory provisions mandating them to take remedial action for prevention, control and abatement of environmental pollution/degradation and for protection and improvement of environment and submit their action taken reports within one month from the date of receipt of a copy of the report of the Joint Committee.”

6. The order impugned in this Appeal disclose that during the inspection it was found that the Appellant was operating without any permission from competent authority under Water (Prevention and Control of Pollution), Act, 1974 and Air Prevention and Control of Pollution) Act, 1981 and was violating the environmental norms. Therefore, the action stated above has been taken against the Appellant.

7. The Learned Counsel for the Appellant has not disputed the findings recorded in the impugned order in respect of violation of Air Act, Water Act and environmental laws. His only submission is that the quantum of compensation which is proposed in the impugned order is on the higher side. We find that the Appellant has an opportunity to approach the competent authority on the issue of imposition of environmental compensation.

8. The Learned Counsel appearing for Uttar Pradesh Pollution Control Board has not disputed that the Appellant will have an opportunity of hearing before the competent authority on the issue of quantum of compensation.

9. Hence, we dispose of this Appeal, permitting the Appellant to file response on the issue of imposition of environmental compensation mentioned in the last paragraph of the impugned order dated 12.12.2022 before the competent authority, who after give an opportunity of hearing to the Appellant will determine the environmental compensation in accordance with law. We make it clear that proposed environmental compensation mentioned in last paragraph of the impugned order is only tentative and final determination will be done after hearing the Appellant.

10. The Appeal and I.A. No. 430/2023 are accordingly disposed of.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

October 04, 2023
Appeal No. 07/2023
(I.A. No. 430/2023)
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