

Item No. 06

(Court No. 2)

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

(Through Physical Hearing with Hybrid Option)

Original Application No. 551/2022

Dr. Ashok Kumar

...Applicant

Versus

State of U.P. & Ors.

...Respondents

Date of hearing: 14.12.2022

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

Applicant: Dr. Ashok Kumar and Mr. Dipankar Kumar (through VC).

Respondents: Mr. Pradeep Misra, Advocate for UPPCB (through VC).

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

ORDER

1. Dr. Ashok Kumar, President Saampooranam Apartment Owner Association has sent the present letter petition by email, which is treated and registered as original application. The applicant has submitted that their society 'EROS Sampooranam', which is situated at Sector-2 Greater Noida West, District Gautam Budh Nagar, Uttar Pradesh is surrounded by illegal Rodi/Bajri mixture plants from which continuous pollution is generated round the clock. The dumpers/trucks plying on service lanes are not only causing air and noise pollution but are also creating grave risk of accidents.

2. Vide order dated 06.09.2022, this Tribunal constituted a Joint Committee comprising Uttar Pradesh Pollution Control Board (UPPCB), District Magistrate, Gautam Bhudhnagar and directed the same to submit its report within one month.

3. In compliance thereof, report of the Joint Committee has been submitted by the Regional Officer, UPPCB vide email dated 13.12.2022. Relevant part of the report is reproduced as under:-

“X X X X X X

2. Action taken by the Joint Committee:

- *In compliance of Hon'ble Tribunal's orders dated 06.09.2022, Joint inspection of unit was carried out on dated 15.10.2022 in the presence of complainant by the Joint Committee comprising of following officials:*
 - a. *Smt. Komal Panwar, Sub Divisional Magistrate (Judicial), Tehsil-Dadri, District-Gautambuddh Nagar.*
 - b. *Shri Ranjeet Singh, AEE, U.P. Pollution Control Board, Greater Noida.*
 - c. *Shri Vivek Kumar, Junior Engineer, U.P. Pollution Control Board, Greater Noida*
- *During inspection, it was informed by the complainant to the Joint Committee that 01 illegal sand washing unit is operating near the Group housing society M/s Eros Sampooranam Apartment, which is the residence of complainant. The Joint Committee in presence of complainant visited the said unit. Main observation of the Joint Committee are as follows: -*
 - 1. *Unit is operational as M/s PMSS Building Material Pvt. Ltd., Khasra no. 663, Vill. - Patwari, 130-meter road, near Eros Sampooranam society, Greater Noida west, Gautambuddh Nagar.*
 - 2. *Unit is situated approx. 400 meter towards west side of group housing project Eros Sampooranam society.*
 - 3. *Unit is engaged in separation of sand from clay by washing of clay through rotary washer. Impurity in form of soil slurry is separated through settling tank, which is being used for land filling in low line areas. Final product (sand) is being sold out to building material suppliers.*
 - 4. *It was found that unit has not covered sand/ clay and loading/ unloading dumpers by green net and no provision has been provided for water sprinkling to suppress dust in premises.*
 - 5. *It was found that Unit has not provided wind breaking wall to control fugitive emissions.*
 - 6. *It was found that unit has not obtained permission (Consent to establish and Consent to operate) from*

U.P. Pollution Control Board and NOC from U.P. Ground Water Department.

- *In view of above shortcomings observed by the Joint Committee, Regional Officer, UPPCB, Greater Noida (nodal agency) issued notice to the said unit, vide letter dated 19.10.2022 copy of same is annexed as **(Annexure-1.)***
- *In continuation of above, Regional Officer, UPPCB, Greater Noida vide letter dated 19.10.2022 sent recommendation to ACEO, GNIDA (Greater Noida Development Authority) for imposing of Environmental Compensation of Rs. 1,00,000/- (One lakh) against said unit. GNIDA vide has imposed EC of Rs. 1.0 Lakh against said unit, letter dated 31.10.2022 copy of same is annexed as **(Annexure-2.)***
- *In compliance of notice dated 19.10.2022, unit has submitted its representation on dated 19.11.2022 regarding shortcomings found during inspection, copy of same is annexed as **(Annexure-3.)***
- *In view of reply submitted by the unit, a fresh inspection was carried out by officials of UPPCB on dated 21.11.2022. During inspection, it was found that unit has covered sand/ clay and loading/ unloading dumpers by green net and provided arrangement for water sprinkling, but unit has not applied for permission from UPPCB and UPGWD. Reply submitted by unit was found not satisfactory, and recommendation to take action under section 31A of the Air (Prevention and Control of Pollution), 1981 against unit was sent to Head Office, UPPCB, Lucknow by Regional Officer, UPPCB, Greater Noida vide letter dated 23.11.2022.*
- *In view of recommendation sent by Regional Officer, UPPCB, Greater Noida, Closure order has been issued against the said unit by the Competent Authority of UPPCB, Lucknow vide letter dated 12.12.2022, copy of same is annexed as **(Annexure-4.)***
- *In compliance of closure order dated 12.12.2022 issued by U.P. Pollution Control Board, Lucknow, sealing of plant machinery and 02 bore wells was done in presence of unit representative, Mr. Pankaj Tomar (Director) on dated 12.12.2022 to ensure closure of unit.*
- *In compliance of closure order, letter has been sent to Noida Power Corporation Ltd., Greater Noida to disconnect power supply of the said unit, copy of same is annexed as **(Annexure-5.)***

3. Conclusion:

In view of above, the Joint Committee observed the shortcoming as mentioned above and action has been taken by following due process of law. Report is being submitted for kind perusal and consideration please.”

4. In view of the averments made in the application and observations made in the report, we consider it appropriate to have response from (1) the State of Uttar Pradesh (U.P.), through the Chief Secretary, Government of U.P.; (2) the Member Secretary, UPPCB; (3) the Chief Executive Officer, Greater Noida Industrial Development Authority; (4) the District Magistrate, Gautam Bhudhnagar and (5) M/s. PMSS Building Material Pvt. Ltd.-project proponent, who stand impleaded as respondents No. 1 to 5. The Registry is directed to prepare and attach memo of parties to the application. Respondent no. 2 is already appearing before this Tribunal through counsel. Notices be issued to respondents no. 1 and 3 to 5.

5. Reply/response by respondents no. 1 to 5 be filed **within one month** by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

6. List for further consideration on 01.02.2023.

7. In the facts and circumstances of the case, we also consider presence of the Regional Officer, UPPCB and the Officer duly instructed/authorized by the CEO-Greater Noida Industrial Development Authority to be essential for producing the relevant record and assisting this Tribunal in just and fair adjudication of the questions involved in the case and accordingly, above Officers shall remain present before this Tribunal physically or through VC with relevant records on the date fixed.

8. A copy of this order, along with a copy of the application and documents attached with the same be forwarded to the Member Secretary,

UPPCB and the Chief Executive Officer, Greater Noida Industrial Development Authority by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 14, 2022
AVT