

Item No. 7

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 487/2022
I.A. No. 292/2022

Jagjeevan Singh

...Applicant

Versus

Punjab Pollution Control Board & Ors.

...Respondent

Date of hearing: 23.11.2022

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

Applicant: Mr. Jagjeevan Singh, applicant in Person

Respondent: Mr. Rahul Khurana, Advocate for respondent no. 4 with
Mr. Mohinder Singh, Proprietor in person.

Application under provisions of the National Green Tribunal Act, 2010.

ORDER

1. The grievance in the present application is against causing of noise pollution beyond permissible limits by the industry M/s Mahindra Industrial Corporation situated opposite to residence of the applicant.
2. Vide order dated 07.07.2022, this Tribunal constituted a Joint Committee comprising of State PCB and Deputy Commissioner, Ludhiana and directed the same to file Factual and Action Taken Report within two months.
3. In compliance thereof Report of the Joint Committee was filed vide email dated 22.09.2022.

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4. Vide order dated 23.09.2022 State of Punjab through Chief Secretary, Government of Punjab and Deputy Commissioner, Ludhiana were impleaded as as respondents No. 5 and 6 and notices were ordered to be issued to respondents no. 1 to 6.

5. Respondent No. 4-the project proponent has appeared and has filed reply vide email dated 17.11.2022. The project proponent has also filed by email IA No. 292/2022 on 17.11.2022 for interim directions/protection against coercive action by PPCB and Punjab State Power Corporation Ltd.

6. The applicant has also filed his submissions to the interim application vide email dated 22.11.2022.

7. Reply to the original application has been filed by respondents no. 1 & 2 vide email dated 22.11.2022 but reply to the interim application has not been filed.

8. We have heard the applicant and learned Counsel for the project proponent and gone through the material on record.

9. It may be observed that in their reply, respondents no. 1 and 2 have mentioned that at the time of visit on 30.08.2022 to the unit of the project proponent, (i) the noise level was 70.8dB(A) when all the header machines were in operation and all the gates and internal doors of the industry were closed and all the preventive measures i.e. insulation/thermocool sheet were in place, (ii) noise level was 79.2dB(A) when all the headers machines were in operation and all the gates and internal doors were opened and (iii) noise level was 68.7db(A) when the industry and all the machines were not in operation. In their reply respondents no. 1 and 2 have admitted that the area where the unit of the project proponent is situated is a mixed area in which residential houses, commercial shops and industries are located. For

the purpose of assessment of the noise level of the unit of the project proponent, the PPCB has adopted the standard of 55db(A) prescribed for the residential area.

10. We find that even when the industry of the project proponent was closed the noise level in the area was 68.7dB(A) which was much more than the prescribed standard of 55db(A) adopted by the PPCB which implies existence of other industrial units in the area with higher noise levels. Further, respondents no. 1 and 2 have not filed copy of the consent granted to the project proponent to show as to what was the prescribed standard for noise which the project proponent is required to comply.

11. It emerges from the facts and circumstances of the case that following substantial questions (1) what should be the prescribed standard for noise in such mixed areas where residential, commercial shops and industries are established-whether standard prescribed for residential area should apply or the standard prescribed for commercial area will be the determining criteria or whether the standard prescribed for industrial area needs to be adopted.

12. We are of the considered view that the matter requires due consideration regarding applicability of noise level standards and also the measures required to be taken for abating noise pollution and therefore, immediate recourse to issuance of order for closure of one of the units which are operating in the area may not be proper, as in such eventuality all other units have also to be scrutinized on the same prescribed standards of noise and closure orders have also to be issued in respect of all other units similarly placed. In the facts and circumstances of the case, it will be appropriate that no immediate recourse is made to issuance of order for closure of units in the area without due deliberation of the questions involved. Therefore, it will be just and proper that the closure and electricity

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disconnection orders issued in respect of the unit of project proponent is kept in abeyance till decisions of the questions involved in the present application. Accordingly, till further orders to the contrary closure and electricity disconnection orders issued in respect of the unit of the project proponent shall remain in abeyance.

13. List for further consideration on 10.01.2023.

14. Reply to the application to interim relief may be filed by the respondents no. 1 and 2, if so, desired 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.

15. In the facts and circumstances of the case, we consider the presence of Member Secretary, PPCB before this Tribunal physically or through VC to be essential for the purpose of assisting this Tribunal in adjudication of the questions involved in the present application and accordingly he is directed to remain present before this Tribunal on that date.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

November 23, 2022
AVT