

Item No.03

(Court No. 2)

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

(Through Physical Hearing with Hybrid V.C. Option)

Original Application No.606/2022  
(I.A No. 262/2022, I.A No. 737/2023 & I.A No. 738/2023)

Public Action Committee & Ors.

...Applicants

Versus

State of Punjab & Ors.

...Respondents

Date of hearing: 26.09.2023

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

**Applicant:** Mr. Kapil Dev, Mr. Kuldeep Singh Khaira and Mr. Jaskirat Singh Applicants in Person.

**Respondent:** Ms.Harithi Kambiri, Advocate for Naginder Benipal, Advocate for Respondents No. 1 to 3.

Mr. Balendu Shekhar Adv and Ms. Tanisha Samanta Advocates for R-5 CPCB.

Mr. ADN Rao Sr. Advocate with Mr. Sandesh Kumar Advocate for Respondent No. 7.

Mr. Rahul Tewari, Secretary to Government of Punjab, Department of Science, Technology and Environment.

Mr. Manish Kumar, Director, Directorate of Environment and Climate change, Punjab.

Mr. Gurindar Singh Majithia, Member Secretary, Punjab Pollution Control Board and Er. Daljit Singh, Environmental Engineer, Regional office, Faridkot,

**Application under Section 14 of the National Green Tribunal Act, 2010,  
Article 51A and Article 21 of Constitution of India, Environment  
(Protection) Act, 1974.**

**ORDER**

1. The applicants have filed the present application seeking *inter alia* the reliefs of sealing the industry, namely- M/s Malbros International Pvt. Ltd. (Distillery), situated at Zira (Punjab) for their illegal acts of contaminating soil as well as Ground Water Table and quality in radius of around 4 Km by dumping the effluent after excavating the top earth surface of its adjoining plot as well as by discharging the same into Earth by method of deep reverse boring. Prayer has also been made for imposition of environmental compensation of Rs. 100 crores on the Project Proponent.

2. Vide order dated 30.08.2022, this Tribunal constituted a Joint Committee comprising of CPCB, State PCB, State Ground Water Board and Deputy Commissioner, Firozpur and directed the same to submit report within one month.

3. Status report was submitted by Environmental Engineer, Regional Office, PPCB, Faridkot vide letter dated 21.10.2022 sent through email dated 21.10.2022.

4. In the status report the Joint Committee inter-alia mentioned that the Government agencies as well as the NGT Monitoring Committee have already carried out monitoring on the observations of the Public Action Committee and the industry is lying closed w.e.f 24.07.2022, so no useful purpose will be served by repeating the exercise already conducted by NGT Monitoring Committee. However, the Joint Committee shall carry out visit to the site in case this Tribunal considers so in view of the facts explained in the status report or as and when the industry re-commissions/resume its operations.

5. Vide order dated 08.12.2022 notices were ordered to be issued to respondents requiring them to file their reply/response and personal appearance of the Officers duly authorized by the Chief Secretary, Government of Punjab, the Principal Secretary, Department of Industries,

Government of Punjab, CPCB, PSPCB, and the District Magistrate, Firozpur was ordered.

6. Pursuant to notice replies have been filed by respondent no. 2-PPCB vide email dated 18.02.2023 and by respondent no. 7-Project Proponent vide email dated 21.02.2023. Rejoinder to the reply filed by respondent no. 7-Project Proponent has been filed by the applicant vide email dated 25.09.2023.

7. The applicants filed Interim Application registered as I.A No. 262/2022 for abolishing the Joint Committee constituted vide orders dated 30.08.2022 and formulation of new Committee comprising of Members (outside Punjab and Chandigarh) with some independent expert like Prof. C. R. Babu with nodal officer from Central Pollution Control Board (CPCB) and the Joint Committee may be directed to join the applicants at the time of visits of the premises and affected areas and besides seeking samples by themselves, samples may be taken on the suggestion of applicants also.

8. Reply to I.A No. 262/2022 (filed in the present case by the applicants) has been filed by respondent no. 5-CPCB vide email dated 19.08.2023.

9. In its reply filed to I.A No. 262/2022 respondent no. 5-CPCB has mentioned that CPCB received a VIP reference forwarded by the MoEF & CC regarding complaint against acute pollution of ground water caused by M/s Malbros International Pvt. Ltd. (Distillery) whereupon a team of CPCB visited on 28.12.2022 and thereafter on 22.02.2023 and 24.02.2023 and on the basis of inspection report dated 13.04.2023 issued directions vide letter dated 17.05.2023 to PPCB under section 18 (1)(b) of the Water (Prevention and Control of Pollution ) Act, 1974. The relevant part of the inspection report dated 13.04.2023 regarding conclusion and further course of action is reproduced as under:-

*“2.5. Conclusion and Further Course of Action:*

*The following conclusion may be drawn based on the field investigations, observations, monitoring and evaluation of gathered data:*

- i. Ground water level ranges from 28.44 to 32.07 m bgl (below ground level) in the study area in the monitored tube-wells and the slope of water table is towards NNW from the factory area.*
- ii. It was alleged that "The distillery has drilled 25 deep tube-wells in their Compound and dumping toxic water in them leading to high pollution in ground water in radius of 15 Kms, polluting drinking & irrigation water of over dozen villages". **In this regard, CPCB Team physically verified 10 Bore-wells and 06 Piezometers installed in the premises of the Industry. The representatives of the industry informed that they have obtained permission for 04 bore-wells and 02 piezometers from CGWB/PWRDA, however no details were provided. The industry was also asked to provide the date of installation and the assembly drawing of the bore-wells/piezometers installed in the premises, to know the depth of the bore-well and the zone tapped, but the details are still awaited despite follow up with PPCB and the Industry.***
- iii. **The existence of such a large number of bore-wells without obtaining permission of CGWB and/or PWRDA in the premises of an industry, claiming to Zero Liquid Discharge is an area of further investigation.***
- iv. Further, two bore-wells inside the premises were found to be installed at a distance of few meter from each other, sealed and buried in the soil, despite the fact the 200 mtr distance between two bore-wells is required as per guidelines.*
- v. In view of the fact that most of ground water structures identified by CPCB team have been installed by the Industry without obtaining permission from CGWB/PWRDA, **the possibility of having more such structures installed illegally without obtaining permission as apprehended in the letter of Hon'ble Member of Parliament (Lok Sabha), can not be ruled out** and thus needs further investigation by involving local revenue department, to know the details of the borewells existing at the time of acquiring the land from the local farmers, by the Industry.*
- vi. **Out of 29 bore-well monitored, 12 bore-wells were yielding water with unpleasant odour, whereas 05***

**Bore-wells were yielding water with unpleasant odour and Grey/blackish colour, which is also evident and confirmed from the high instrumental analysis values for colour and turbidity.**

- vii. **The evaluation of data with regard to analysis results of ground water samples for general parameters, revealed that water from none of the 29 bore-wells monitored by CPCB Teams comply with the acceptable and permissible limits for one or more parameters, thereby rendering the water unfit for drinking. TDS, Boron and Sulphate were found be present in very high concentration and beyond acceptable and permissible limits in many samples. While high TDS and sulphate concentration may be an outcome of the industrial activity, however, the exceedance of Boron may not be attributed to the industry under reference.**
- viii. **The ground water was found to be affected with high concentration of metals and heavy metals (Toxic Elements) in three villages namely Mansoorwal, Mahianwala Kalan and Ratol Rohi and this finding is in line with the slop of water table in the area, as determined by the CGWB team.**
- ix. *The presence of cyanide in the borewell located at Village Ratol Rohl at a concentration of 0.2 mg/l, which is four times higher than the acceptable limit of 0.05 mg/l, as specified in IS 10500: 2012 is an area of concern. Further investigation to pin points the source of this contamination is required in the interest of public health. The same borewell was also found to be having high concentration of Arsenic and very high concentration of lead, as well.*
- x. *One borewell with 250 ft depth monitored at Village Mahianwala was found be having high concentration of Selenium, Manganese and Iron exceeding the acceptable & permissible limits, while the other borewell with approx. 500 ft depth was found to be having high concentration of iron and manganese exceeding both acceptable and permissible limits.*
- xi. *The evaluation of the analysis reports w.r.t. monitoring of 02 borewells located in the premises revealed that metals and toxic metals namely Arsenic, Chromium, Copper, Iron, Manganese, Nickel, Lead and Selenium, are present in very high concentration.*
- xii. *The concentration of COD and Colour was also very high in these two bore-wells located in the premises of the Industry. The water from both the borewell was having black colour and foul odour, as observed during sampling. In these borewells, concentration of Arsenic was found to be 2-3 time higher than permissible limits. Similarly,*

*concentration of Chromium, Iron, Manganese, Nickel and Lead were found to be higher by 6-7 times, 650-800 times, 32-37 times, 10-11 times and 8-13 times respectively in comparison to permissible limits specified in IS 10500:2012.*

- xiii. Despite the fact that these two borewells were in operational condition, motor, electrical and mechanical connections of one borewells was disconnected, while the other bore-well was sealed and buried in the soil.*
- xiv. Since, the samples drawn from the piezometers and 03 bore-wells located in the premises of the Industry were found to be free from heavy metal contamination and whereas two bore-wells installed in the same premises are contaminated with high concentration of heavy metals, COD and Colour; it indicates injection of contaminated waste water through reverse boring/pumping into a particular zone tapped in these two bore-wells. However, further investigation is required in this regard, to establish the contaminated zone and take remedial action.*
- xv. The sample of the soil contaminated with the sludge was found to be exceeding the Soil Criteria of CCME Canadian Environmental Quality Guidelines fir the Protection of Environment and Human Health, for Soil Type (Industry) with regard to Zinc (396.84 mg > 361 mg/Kg), while other elements were within limits. However, further investigation is required to find the contamination at deeper levels and also outside the premises, where photographic and videographic evidences are available, in the interest of public.*
- xvi. Local administration is required to take necessary action to red mark the contaminated bore-wells, to avoid use of contaminated ground water as drinking water, irrespective of the source of contamination, in the interest of public health.*
- xvii. Bio-magnification studies are required to know the effect of contaminated water on the crops and accumulation of contaminants in the agro crops and the health risk associated with it, so as to ensure corrective action on the basis of the outcome of the study, if required.*
- xviii. CPCB had requested further details (Annexure-1) from MA Malbros International Pvt. Ltd, for comparing the outcome with the base-line data, correlation and decide further course of investigation and remediation, which are still awaited despite follow up with PPCB and the Industry **(Annexure-2)**”*

10. In view of the observations made in the inspection report and in exercise of the powers conferred under section 18 (1) (b) of the Water (Prevention and Control of Pollution ) Act, 1974 following directions have been issued by CPCB to the PPCB:-

*“1. Punjab Pollution Control Board (PPCB) considering the violations reported in the CPCB inspection report (Annexure-1) shall issue appropriate direction to the Unit [M/s Malbros International Pvt. Ltd., (Malbros Distillery), Village-Mansoorwal, Zira, Ferozepur, Punjab] with respect to necessary remedial measures for the decontamination of the affected site and compliance with the violations observed in the inspection report.*

*2. PPCB shall undertake detailed environmental site assessment, as per the CPCB guidelines, by engaging a professional agency/institute having expertise in assessment and remediation of contaminated groundwater & soil and submit the report within 60 days.*

*3. Based on the detailed site assessment, PPCB shall ensure that the Unit submit a DPR for remediation of groundwater contaminated area in around the premises, and execute the work in the supervision of PPCB in a time bound manner. The Unit bear all the remediation expenses,*

*4 PPCB shall impose EC (environmental compensation) or initiate legal action for causing injury to the surrounding environment and contamination of groundwater as may be applicable,*

*5 PPCB shall issue appropriate direction to the water supply department to analyze the parameters for Drinking Water Quality Standards in water of bore-wells installed in the affected area. Depending upon the compliance with the Drinking Water Quality Standards, the use of water from the bore-wells may be prohibited/permitted, as per the case and shall ensure that the Unit provide alternative sources of safe drinking water to the affected villages.*

*6. PPCB shall Issue direction to local authorities & groundwater Department to seal the unauthorized bore-wells.*

*7 PPCB shall ensure regular monitoring of the groundwater quality in the area and shall ensure no further spread of contamination.”*

11. Respondent no. 7 has filed (i) I.A No. 737/2023 for seeking directions declaring the report dated 13.04.2023 and letter dated 17.05.2023 issued by respondent no. 5-CPCB as null and void with consequential relief of striking

off the reply affidavit dated 19.05.2023 filed by respondent no. 5 in reply to I.A No. 262/2022 and declare all subsequent action of PPCB in declining to renew the grant of consents to operate to the respondent no. 7 as null and void; and (ii) I.A No. 738/2023 for exemption from filing original/certified/translation of vernacular documents and typed copies of the dim annexure filed alongwith the application; and (iii) I.A No. 749/2023 for recall of ex-parte orders dated 30.08.2022 and 08.12.2022, for dismissal of O.A No. 606/2022 and declaring CM tweet, CPCB report dated 13.04.2023, directions dated 17.05.2023, refusal of consent by PPCB in July, 2023 and criminal complaint and all consequent actions as being arbitrary and illegal.

12. I.A No. 749/2023 was filed by Ms. Preeti Goel and Mr. Hardik Bedi, Advocates but subsequently Ms. Preeti Goel, Advocate has sent written communication withdrawing from the case.

13. The applicants have submitted that copies of the interim applications have not been supplied to them.

14. Respondent no. 7 is directed to supply the copies of the interim applications to the applicants and other respondents within two weeks.

15. Replies to the interim applications may be filed by the applicants/other respondents, if so desired, within one month by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

16. In compliance of order dated 08.12.2022 Mr. Rahul Tewari, Secretary to Government of Punjab, Department of Science, Technology and Environment, Mr. Manish Kumar, Director, Directorate of Environment and Climate change, Punjab, Mr. Gurindar Singh Majithia, Member Secretary, Punjab Pollution Control Board have appeared through VC and we have interacted with them. In the course of interaction Mr. Gurindar Singh Majithia, Member Secretary,

Punjab Pollution Control Board has intimated that consents to operate granted to the respondent no. 7 have been revoked/declined and Mr. Rahul Tewari, Secretary to Government of Punjab, Department of Science, Technology and Environment has intimated that steps are being taken for carrying out the proper study by NEERI and other agencies for remedial action.

17. Without commenting on merits of CPCB report dated 13.04.2023 and directions issued by CPCB but taking into consideration the observations made regarding contamination of ground water and also reports regarding water of 29 tube wells being unfit for drinking, we consider it to appropriate to direct official respondents to find out other sources/causes of contamination of ground water, take remedial measures and to ensure supply of safe and clean drinking water to the residents of the locality. Action Taken Report be filed with giving details regarding baseline data of groundwater quality before and after operation of the respondent no. 7-Distillery unit and remedial action taken. Action Taken Report be filed on or before 20.11.2023 by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

18. In view of the serious allegation regarding contamination of ground water by respondent no. 7-Distillery unit, we consider it appropriate to direct the official respondents to ensure that other distillery units in the State of Punjab are periodically monitored to guard against contamination of ground water. Accordingly, PPCB is directed to inspect other distilleries in the State of Punjab and submit reports regarding quality of water in the surrounding areas before and after establishment of distilleries. The reports be filed on or before 20.11.2023 by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF and be also uploaded by PPCB on its website.

19. List for further consideration on 24.11.2023.

20. A copy of this order be sent to official respondents by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

September 26<sup>th</sup> 2023  
AG