

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.532/2022

Mr. Rajveer

F-28, Block G, Sanjay Colony,
Sector 22, Faridabad, Haryana-121001

... Applicant

VERSUS

**1. Government of NCT of Delhi through Chief Secretary
Government of New Delhi,**

Delhi Secretariat, IP Estate, New Delhi-110002
Email Address: csdelhi@nic.in

2. Deputy Commissioner, (North) Delhi

Room No-1, DM Office Complex, Alipur, Delhi-110036
Email: dcnorth@nic.in

3. Delhi Pollution Control Committee

Mahatma Gandhi Road,
P and T Colony, Civil Lines, Delhi, 110054,
Email Address: srscitdpcc.delhi@nic.in/msdpcc@nic.in

4. M/s Susheel Plastic

(Project Proponent)

I-2142, DSIIDC, Narela Industrial Area, Delhi

5. M/s Sumit Enterprises

(Project Proponent)

I-2155, DSIIDC, Narela Industrial Area, Delhi

... Respondents

Date of hearing: 04.05.2023

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

Applicant: None.

Respondent: Ms. Sakshi Popli, Advocate for respondent no. 3- DPCC
Mohd. Arif, Senior Environment Engineer.
Mr. Surender Singh, Assistant Environment Engineer.
Mr. Dinesh Jindal, Law Officer, DPCC.
Mr. Vishal Gupta for respondent no. 4-M/s Susheel Plastic.
Mr. Sumit Gupta for respondent no. 5- M/s Sumit Enterprises.
None for respondents No.1 and 2.

Application is registered based on a Letter Petition received by Post.**ORDER**

1. M/s. Rajveer Plastic, F-28, Block G, Sanjay Colony, Sector -22, Faridabad, Haryana has sent the present letter petition, which has been registered and treated as original application, complaining that factory number 2155 situated in I Block of Narela Industrial area is illegally manufacturing prohibited plastic carry bags in violation of environmental norms. The owner of the factory has stacked bags containing plastic granules in the front and is carrying on manufacturing of prohibited plastic bags in the back portion.

2. Vide order dated 02.09.2022, this Tribunal constituted a Joint Committee comprising of representative of DPCC and Deputy Commissioner (North West), Delhi with direction to verify the factual position and submit its report within one month.

3. In compliance thereof Action Taken Report on behalf of DPCC along-with inspection reports of the Joint Committee have been submitted vide email dated 14.12.2022. The relevant part of the report is reproduced below:-

***“ACTION TAKEN REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE IN COMPLAINT TO THE ORDER DATED 02.09.2022.*”**

X X X X

3. That a joint inspection of the site was carried out on 14.10.2022 by the representatives of DPCC and SDM (Narela). During the inspection, it was observed that:

A. M/s Sumit Enterprises, I-2155, DSIIDC, Narela Industrial Area.

- Premises is used for warehousing and Trading of Dana/Plastic granules.*
- Unit has applied for CTO (Orange) for the activity of "Reprocessing of waste plastic/PVC (without washing activity).*
- Premises number I-2155 & I-2142 are jointed & operated jointly.*

B. M/s Susheel Plastic, I-2142, DSIIDC, Narela Industrial Area.

- Unit found operational and engaged in the activity of manufacturing of plastic carry bags less than 75 microns and manufacturing of plastic granules using scrap & plastic waste without washing activity.*
- Proper channelization for controlling air pollution installed and found to be working properly.*
- One Tonne of plastic carry bags (40 bags X25 Kg) and less than 75 microns were seized at spot in the presence of Delhi Police official, DPCC, Revenue and were kept in SDM (Narela).*

Copies of the joint inspection report dated 14.10.2022 are enclosed herewith as ANNEXURE-1 (Colly).

4. That, DPCC has issued Show Cause Notices on 16.11.2022 for closure as well as imposition of Environmental Damages Charges amounting to Rs. 9,00,000/-(Rupees Nine Lacs only) against M/s Susheel Plastic (I-2142), which was engaged in the activity of plastic carry bags less than 75 microns. Copies of the Show Cause Notices are enclosed herewith as ANNEXURE-2 (Cony).

5. That DPCC has issued a letter to DM(North) in reference to joint inspection carried out on 14.10.2022. DPCC has requested to keep the seized plastic material in safe custody till the order issued by DPCC for its final disposal through authorized recycler. Copy of the letter dated 28.11.2022 is enclosed herewith as ANNEXURE-3.

6. That M/s Susheel Plastic has submitted a letter dated 28.11.2022 for closure of the manufacturing activity at premise number I-2142, and also surrendering all the related licenses of this address and surrendering consent of DPCC. Copy of the letter dated 28.11.2022 as well as copy of consent of DPCC are enclosed herewith as ANNEXURE-4.

7. That DPCC has again inspected the premises on 06.12.22 with regard to premise number I-2142, Narela Industrial Area. Following were the observations ;-

- 1) Unit found closed and no industrial activity found during the inspection.*
- 2) Unit caught fire on 24.10.2022 as reported by factory owner and has closed its industrial operations after this fire incident.*
- 3) Unit has obtained consent from DPCC for the activity of manufacturing of plastic dana and plastic bags re-processing without washing activity.*

Copy of the inspection report dated 06.12.2022 is enclosed herewith as ANNEXURE-5.”

4. Vide order dated 17.04.2023 notices were ordered to be issued to the respondents- Government of NCT of Delhi through Chief Secretary, Government of NCT of Delhi, Deputy Commissioner, (North) Delhi, DPCC, the Project Proponent- M/s Susheel Plastic, I-2142, DSIIDC, Narela Industrial Area, Delhi and the Project Proponent-M/s Sumit Enterprises, I-2155, DSIIDC, Narela Industrial Area, Delhi. Personal appearance of Mr. Mohd. Arif, Senior Environmental Engineer, DPCC physically before this Tribunal was also thereby ordered.

5. In compliance thereof Mr. Mohd. Arif, Senior Environmental Engineer, DPCC has appeared physically before this Tribunal and we have interacted with him.

6. Pursuant to notice Action Taken Report has been filed by the DPCC vide email dated 01.05.2023. The relevant part of the Action Taken Report is reproduced below:-

“COMPLIANCE REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE IN TERMS OF THE ORDER PASSED BY THIS TRIBUNAL

X X X X

2. *That, notices to be issued to respondent number 4 and 5 were received from the registry of this Hon'ble Tribunal on 26.04.2023 for serving them to the project proponents.*

3. *The said notices have been e-mailed to both the units on 26.04.2023 and also delivered to respondent number 4 and 5 through special messenger on 27.04.2023. Print out of the email served to Respondent Number 4 and 5 are annexed herewith as Annexure- R-3/1 (Colly). Copy of the receipt of notice by Respondent number-4 and 5 are enclosed herewith as Annexure-r-3/2 (Colly).*

4. *That this Hon'ble Tribunal vide order dated 02.09.2022 taken the cognizance of the grievance of applicant which was regarding manufacturing of prohibited plastic carry bags by Respondent number 4 and 5. In the grievance applicant has mentioned that, the owner of the factory has staked bags containing plastic granules in the front and prohibited plastic bags manufactured in the back portion.*

5. *That in pursuance of the order dated 02.09.2022, a joint inspection of the site was carried out on 14.10.2022 by the*

representatives of DPCC, Delhi Police and SDM (Narela). Premises number I-2155 & I-2142 are jointed & operated jointly. The inspections were carried out in presence of the representative of the units. During the inspection it was observed that:

A. M/s Susheel Plastic, I-2142, DSIIDC, Narela Industrial Area.

- Unit found operational and engaged in the activity of manufacturing of plastic carry bags less than 75 microns and manufacturing of plastic granules using scrap & plastic waste without washing activity.*
- Proper channelization for controlling the air pollution installed and found to be working properly.*
- One Tone of plastic carry bags (40 bags X 25 Kg) and less than 75 microns were seized by the joint team and seized material was kept in custody of SDM (Narela).*

B. M/s Sumit Enterprises, I-2155, DSIIDC, Narela Industrial Area

- Premises is used for warehousing and Trading of Dana/Plastic granules.*
- Unit applied for getting Consent for the activity of reprocessing of the waste.*

Copies of the joint inspection reports dated 14.10.2022 are enclosed herewith as ANNEXURE-R-3/3 (COLLY).

4. That DPCC has issued Show Cause Notices on 16.11.2022 for closure as well as imposition of Environmental Damages Charges amounting to Rs. 9,00,000/- (Nine Lacs Only) against M/s Susheel Plastic (Responded No. 4), as the unit was manufacturing plastic carry bags less than 75 microns. Copies of the Show Cause Notices are enclosed herewith as ANNEXURE-R-314 (Collv).

5. That with regard to status of Consent to operate under Orange Category of M/s Susheel Plastic (Respondent No. 4), it is most respectfully submitted that the unit has applied for CTO under Orange Category on 03.08.2022 for the activity of manufacturing of Plastic Dana and Plastic Bags. The said activity is categorized in 2 (b) category and decided by Consent Management Committee headed by Member Secretary. The unit has submitted undertaking for Manufacturing of PVC and Plastic carry bags as per norms permitted under Plastic Rules, 2016. The complete Consent applications with mandatory documents, are put up before CMC headed by Member Secretary. As per policy, no prior inspection is done to decide consent cases. The unit has submitted stack monitoring report carried out on 28.07.2022 which shows particulate matter and 1-1CL. mist and vapour within the prescribed limit. As per decision of Consent Management Committee held on 30.09.2022, Consent to Operate was granted for the activity of Plastic Dana and Plastic Bags on 06.10.2022. Thus, the Consent to Operate was granted on 06.10.2022 on decision in CMC meeting held on 30.09.2022 which was prior to date of inspection conducted on 14.10.2022 by the joint team.

Similarly, M/s Sumit Enterprises, (Respondent No. 5), engaged in Manufacturing of Reprocessed Granules (Using scrap as Raw Material) Without Washing has applied for Consent to operate under Orange Category on 12.07.2022. The case was put up before the Consent Management Committee on 26.08.2022 headed by Member Secretary, DPCC for deciding 2(b) cases. As per the decision of Consent Management Committee held on 26.08.2022, Consent to Operate under Orange Category was granted to M/s Sumit Enterprises on 29.08.2022 which was prior to inspection conducted on 14.10.2022 by the joint team.

8. That M/s Susheel Plastic (Respondent no. 4) has submitted a letter dated 28.11.2022 for closure of the manufacturing activity at premises number I2142, and also surrendering all the related licenses of this address to the respective authorities including consent issued by DPCC.

9. Subsequently, DPCC has inspected the premises on 06.12.2022 and again on 26.04.2023 with regard to the premise number I-2142 and 1-2155, Narela Industrial Area.

a. The premises/building found under demolition condition during inspection

b. No industrial/production activity found being carried out during inspection. Inspection Reports as well as Geo tagged photographs of the premises at I-2142 & 2155, Narela Industrial Area are enclosed herewith at Annexure-R3/5.

10. As these units has permanently closed, therefore Consent to Establish and Consent to Operate of units namely M/s Susheel Plastic, 1-2142, and M/s Sumit Enterprises, I-2155, has been revoked on 27.04.2023."

7. None has appeared for the applicant during hearing of the present application earlier and even today.

8. In all such cases where proceedings are initiated on letter petitions the Registry must make an effort to verify credentials of the applicant, to inform the applicant about the proceedings and to send VC link to the applicant to enable him to join the proceedings by post/email/whatsapp messages/SMSs as may be viable/possible.

9. We heard learned Counsel for the respondent No.3 and representatives of respondents No.4 and 5 and have interacted with Mr. Mohd. Arif, Senior

Environmental Engineer, DPCC and gone through the inspection reports of the Joint Committee and Action Taken Reports of the DPCC.

10. We find serious deficiencies in the working of the DPCC and also the Joint Committee constituted by this Tribunal and serious flaws/short comings in the report of the Joint Committee and Action taken report of the DPCC.

11. In the present case cognizance was taken on the present letter petition vide order dated 02.09.2022 whereby a Joint Committee was constituted with direction to submit its report within one month. Said order was received by the DPCC through email on 09.09.2022. The DPCC granted consent to operate to M/s Susheel Plastic vide consent order dated 06.10.2022. Consent was granted to M/s Susheel Plastic after receipt of the present complaint and also without inspection of its Unit. In Action Taken Report it has been mentioned that "As per policy, no prior inspection is done to decide consent cases. We fail to understand how consent could be granted without inspection to Unit against which complaint regarding illegal operation in violation of environmental norms was already received. In compliance of order dated 02.09.2022 joint inspection of the site was carried out by the Joint Committee on 14.10.2022. In the Joint Inspection Report of M/s Sushil Plastic in the column No.13 Status of Consent (If Any) remarks **CTO applied App ID 8316601** were made without mentioning grant of consent on 06.10.2022. In column No.20 Status of Registration under Plastic Waste Management Rules remarks As per record were made. In the inspection report of the Joint Committee there is no mention since when the unit was operational. JEE DPCC did not even bother to ascertain whether the unit was registered under the Plastic Waste Management Rules 2016. M/s Sushil Plastic was reported to have manufactured one tonne of plastic carry bags (40bagsX25 KG) less than 75 microns which were seized for being kept in safe custody till final disposal through authorized recycler. Show cause notices dated 14.11.2022

for closure as well as imposition of Environmental Damage Charges amounting to Rs.9,00,000/- were issued to M/s Sushil Plastic who submitted letter dated 28.11.2022 for closure of the manufacturing activity and surrendering relevant licences and consent granted by DPCC. As per the record of DPCC the unit worked from 06.10.2022 when consent was granted till 14.10.2022 when inspection was carried out by the Joint Committee or till 14.11.2022 when show cause notices for closure as well as imposition of environmental damage charges were issued, then how the provisional amount of environmental damage charges was worked out is not mentioned.

12. It may also be observed here that in the inspection report of M/s Sumit Enterprises in the column No.13 Status of Consent (If Any) remarks Orange applied (CTO) were made without mentioning grant of consent on 29.08.2022. In column No.20 Status of Registration under Plastic Waste Management Rules remarks as per record were made. In the inspection report of the Joint Committee there is no mention since when the unit of M/S Sumit Enterprises was operational. JEE DPCC did not even bother to ascertain whether the unit was registered under the Plastic Waste Management Rules 2016. What was the status of the activity for which consent was granted on 29.08.2022 was not mentioned.

13. DPCC has on the basis of inspection of the premises number I-2142 and I-2155, Narela Industrial Area on 06.12.2022 and again on 26.04.2023 submitted that the premises/buildings were found under demolition condition and during inspection no industrial/production activity were found being carried out there but even this report is wrong to the extent that respondent No.5 has admitted that he is still using the premises for sale of manufactured plastic granules. It may also be added here that both the Action Taken Reports on behalf of DPCC have been filed by Mohd. Arif Senior Environmental Engineer instead of the Member Secretary or Chairman of the

DPCC without any supporting document showing according approval of the reports or delegation of authority to file the reports.

14. The Member Secretary, DPCC is directed to place the matter before DPCC for making inspection of the unit/premises before grant of consent to be mandatory and also ensuring that reports are filed with due approval through him or duly authorized Officer under valid delegation of Authority.

15. In view of the factual position emerging from the material on record, no further action is required to be taken on the present application which is disposed of accordingly.

16. However, in case of any grievance in future the applicant or the respondents No. 4 and 5 shall be at liberty to move appropriate application for further directions in the matter and respondent No.4 shall also be entitled to file appeal against order imposing environmental damage compensation if any imposed on respondent no.4 in accordance with law.

17. A copy of this order be sent to the applicant and respondents No. 1 to 5 by email for information/compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 04 2023
AG