

Item No.16

Court No. 1

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

Original Application No.802/2023

Anand Hooda

Versus

Applicant

HSPCB & Ors.

Respondent(s)

Date of hearing: 15.05.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Ms. Smita Bankoti, Adv. for Applicant (Through VC)

ORDER

1. In this original application, grievance of the applicant is that private respondent units manufacturing formaldehyde are operating in Yamuna Nagar without obtaining any environmental clearance and in violation of the law.

2. Learned Counsel for the applicant has submitted that this issue was decided by Tribunal by order dated 03.06.2021 passed in O.A. No. 287/2020, *Dastak N.G.O. v. Synochem Organics Pvt. Ltd. & Ors.* wherein order of State of Haryana allowing manufacture of formaldehyde permitting unit to operate for six months without EC was under challenge and while disposing of the said original application Tribunal had observed as under:-

“ 7. It is clear from the stand of the State itself that prior EC is required under EIA Notification dated 14.09.2006 (Entry 5(f) of the Schedule. Once it is so there is no justification to permit function of such units in violation of mandate of law. In Alembic Chemicals v Rohit Prajapati & Ors., 2020 SCC Online 347, the Hon'ble Supreme Court has made it clear that prior EC requirement cannot be dispensed with. While it is true that having regard to the fact

situation therein particularly grant of EC later, the units were not closed and instead were required to pay compensation for the period the units functioned without prior EC, it does not mean that in absence of prior EC the units can be allowed to function by paying compensation. We thus hold that without prior EC the units cannot be allowed to operate. The State has no power to exempt the requirement of prior EC or to allow the units to function without EC on payment of compensation. Same view has been taken in O.A. No. 840/2019, Ayush Garg v. UOI & Ors. which has been dealt with by a separate order today.”

3. Learned Counsel appearing for the applicant submits that above order was subject matter of challenge before the Hon’ble Supreme Court at the instance of *Neetu Solvents v. Vineet Nagar & Ors. in Civil Appeal No (s). 2881/2021* wherein initially Hon’ble Supreme Court by order dated 30.07.2021 had stayed the operation of the order of the Tribunal and consequential order by directing as under:-

“Upon hearing the counsel the Court made the following

ORDER

Issue notice returnable in two weeks.

Dasti service, in addition, is permitted.

The impugned order has apparently been passed without giving the affected parties including the appellant herein, an opportunity of hearing. There will, accordingly, be an ad interim stay of operation of the impugned order and the consequential orders.”

4. She has further submitted that matter was thereafter taken up and the earlier order was clarified by order dated 25.08.2021 by the Hon’ble Supreme Court by directing us under:-

“UPON hearing the counsel the Court made the following

ORDER

Applications allowed. for deleting the proforma respondents are The names of the proforma respondent be deleted from the array of parties at the risk of the petitioners.

It is made clear that the interim orders passed by this court will not stand in the way of requisite permits and clearances being processed and issued.

List the Civil Appeals along with Civil Appeal No. 4795 of 2021 and other connected matters.”

5. She has submitted that in view of the order of the Tribunal as also the interim order of Hon’ble Supreme Court noted above, units manufacturing formaldehyde are required to take the EC and they cannot be permitted to operate without obtaining EC.
6. Original application raises substantial issue relating to compliance of environmental norms.
7. Issue notice to the respondents.
8. Applicant is directed to serve the respondents and file affidavit of service at least one week before the next date of hearing.
9. List on 30.08.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

May 15, 2024
Original Application No.802/2023
JG.