

Item No. 07

Court No. 1

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

Original Application No. 802/2023

Anand Hooda

Applicant

Versus

Haryana State Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 22.05.2025

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

Applicant: Ms. Smita Bankoti, Mr. Ashish Sheoran & Ms. Neha Arya, Advocates

Respondents: Mr. Nidhesh Gupta, Senior Advocate with Mr. Tarun Gupta and Mr.
Hirday Viridi, Advocates for R- 4 to 9
Dr. Ankit Gupta, Adv. with Mr. Aditya Narayan Singh, Director/Industry -
3, MoEF & CC and Ms. Tejasvita Yadav, Legal Associate, Industry - 3
Mr. Rahul Khurana, Advocate for HSPCB & SEIAA

ORDER

1. In this Original Application (OA), the Applicant, a resident of Yamuna Nagar, has raised a grievance against Respondent Nos 2 to 9, formaldehyde manufacturing units. The applicant's plea is that these units are operating without Environmental Clearance (EC), in violation of the Environment Impact Assessment Notification dated September 14, 2006 (EIA Notification, 2006), bearing number S.O. 1533. The Applicant alleges that the harmful effects of formaldehyde are not only grave and limited to plants or animals, but also extend to people working, residing, and living in and around the area. The exposure to formaldehyde is known to cause irritation of the skin, throat, lungs and eye and repeated exposure can possibly lead to cancer.

2. The applicant alleges that, according to the additional response to the RTI dated 12.12.2023, 12 units are operating in Yamuna Nagar. In light

of this factual background, the applicant has prayed for multiple reliefs in this OA.

3. The HS PCB had filed the reply dated 29.08.2024, disclosing the compliance status of the 12 formaldehyde manufacturing units operating in Yamuna Nagar. The Respondent No.10-MoEF&CC has filed the reply dated 05.12.2024 giving the details of the requirement of EIA Notification, 2006 and stating that manufacturing of formaldehyde requires a prior EC under Category A and item 5(f) 'synthetic organic chemical industry'. The Respondents Nos 4 to 9 have also filed their reply stating that they have applied for the EC in the year 2021, immediately after coming to know the requirement of the EC and that they had set up the unit based on the Consent to Establish (CTE) granted by the HS PCB. They have specifically denied the expansion of their manufacturing capacity without taking EC and CTE from the HS PCB.

4. The submissions of the counsel appearing for the Applicant is that Respondent No. 2 to 9 are operating without obtaining the EC and in view of the recent order of the Hon'ble Supreme Court in the case of *Vanashakti v. Union of India*, Writ Petition (C) No. 1394/2023, *ex-post facto* sanction/EC cannot be granted to these Respondents. Therefore, they must close down. Further submission has been made that the Hon'ble Supreme Court in the pending Civil Appeal against the order of the Tribunal has not granted any stay of getting the EC.

5. Learned counsel appearing for the MoEF&CC has pointed out that for 8 formaldehyde plants in Yamuna Nagar, EC is required, and in view of recent judgment of the Hon'ble Supreme Court in the case of *Vanshakti vs. Union of India*, supra, now the MoEF&CC cannot grant EC to the Project

Proponent (PP). They will duly follow the judgment of the Hon'ble Supreme Court in the case of *Vanshakti vs. Union of India*.

6. Learned counsel appearing for the HS PCB submits that since the Appeal against the earlier order of the Tribunal is pending before the Hon'ble Supreme Court therefore its decision should be awaited.

7. Learned counsel appearing for the SEIAA, Haryana submits that it will follow the stands of the MoEF&CC.

8. Learned counsel appearing for the Respondent No. 2 to 9 has submitted that the prayer in the OA does not survive and has become infructuous and that against the earlier order of the Tribunal, the private Respondents have already preferred a Civil Appeal which is pending and two of the Civil Appeals have already been allowed. Therefore, the order passed by the Hon'ble Supreme Court inter partes proceedings will apply and the recent order of the Hon'ble Supreme Court in the case of *Vanshakti vs. Union of India* will have no application in the present case. He has pointed out that the Appeals by the Respondents are part-heard by the Hon'ble Supreme Court and all these Respondents have already applied for the EC.

9. We have heard learned counsel appearing for the parties at length.

10. There are 12 formaldehyde manufacturing units operating in and around Yamuna Nagar and their compliance status relating to the clearances is reflected in the communication of the Regional Office, Yamuna Nagar Region dated 12.11.2024 Annexure R-3 (page 490) as under:-

Sr. No.	Name and Address of Unit	State of Environment Clearance	Status of CTO	Status of prosecution
1.	Shiva Chem, Plot No. 64, HSIIDC, Manakpur, Yamuna Nagar	Not required, The unit established before EIA Notification, 20 06	CTO valid upto 30.03.2026	Not required
2	RS Chemicals Village Kunjal Jattan, Tehsil Radaur, Distt. Yamuna Nagar	Obtained, SEIAA (128)/HR/202 1/691 dated 13.07.2021	CTO valid upto 30.09.2026	Not required
3.	Synochem Organics Pvt. Ltd, Plot No. 54, HSIDC, Industrial Estate, Manakpur, Jagadhri, Yamuna Nagar	Applied & pending before SEIAA	CTO valid upto 30.09.2028	Filed
4.	Apcolite Polymer Pvt. Ltd., Vill-Ghespur, 21 KM Road Ladwa Road, Radour, Yamuna Nagar	Applied & pending before MoEF&CC	CTO valid upto 30.09.2028	Filed
5.	SANWARIA POLYMER INDUSTRIES PRIVATE LIMITED (Old Name Jai Bharat Polymer and Chemicals), Plot No 211 HSIDC Manakpur, Jagardhri	Applied & pending before SEIAA	CTO valid upto 30.09.2025	Filed
6.	Pahwa Plastics Pvt Ltd, Village Jathlana, Radaur, Yamuna Nagar	Applied & pending before MoEF&CC	CTO valid upto 30.09.2024 and applied for Renewal of CTO is under process.	Filed
7.	Goyal Overseas, Village Shehzadpur Tehsil Jagadhri	Obtained vide EC Identification No.- EC23A021HR1 52594 File No. - IA-J 11011/107/20 21-IA-II(I) Date of Issue EC - 17/04/2023	CTO valid upto 30.09.2027	Filed
8.	OM CHEM, Village Kurali Sabapur Road Tehsil Bilaspur, Yamuna Nagar	Obtained vide EC Identification No. EC22A021HR1 34768 File No. - IA-J- 11011/106/20 21--IA-II(1) Date of	CTO valid upto 30.09.2028	Filed

		<i>Issue EC- 21/12/2022</i>		
9.	<i>Decent Drugs Pvt. Ltd., Salempur, Bangar Road, Chhachrauli, Yamuna Nagar.</i>	<i>Applied & pending before MoEF&CC</i>	<i>CTO valid upto 30.09.2025</i>	<i>Filed</i>
10.	<i>Decent Drugs Pvt. Ltd., Salempur, Bangar Road, Chhachrauli, Yamuna Nagar.</i>	<i>Applied & pending before MoEF&CC</i>	<i>CTO valid upto 30.09.2026</i>	<i>Filed</i>
11.	<i>Guruji Overseas, Khasra No. 13//12/2, 13/5/1, 13/1, 13/4, 14/2, 13/3, Khajuri Road, Vill Jathlana, Tehsil, Radaur, Yamunal Nagar</i>	<i>Applied & pending before MoEF&CC</i>	<i>CTO valid upto 30.09.2026</i>	<i>Filed</i>
12.	<i>M/s Globe Panel Industries Inida Pvt. Ltd., (unit-3), M-28, E-57, Industrial Area, Yamuna Nagar</i>	<i>Applied & pending before SEIAA</i>	<i>CTO valid upto 30.09.2027</i>	<i>Filed</i>

11. The above chart reveals that out of the 12 units, one does not require EC as it was established before the EIA Notification 2006, 3 units have already obtained the EC and in respect of the remaining 8 units the application for EC is either pending before SEIAA Haryana or before the MoEF&CC.

12. Earlier OA No. 287/2020, *Dastak N.G.O. vs. Synochem Organics Pvt. Ltd. & Ors.* was filed raising the same issue that prior EC is mandatory for manufacturing formaldehyde and questioning the order of the State of Haryana dated 11.11.2020 allowing manufacturing of formaldehyde, and permitting to operate such units for six months without EC. The Tribunal had considered entry 5(f) of schedule to the EIA Notification 2006 which is extracted below: -

“List of Projects or activities requiring prior Environment Clearance.

Project or Activity		Category with threshold limit		Conditions if any
5(f)	Synthetic organics chemicals (dyes & dye intermediates; bulk drugs intermediates excluding and drug formulations; synthetic, rubbers; basic organic chemicals other synthetic organic chemicals and chemical intermediates).	Located out side the notified industrial area/ estate except small units as defined in column (5)	(i) Located in a notified industrial area/ estate. except (ii) small units as defined in column (5)	General as well as specific conditions shall apply. Small units: with water consumption <25 cu mt per day, fuel consumption <25 TPD and not covered in the category of MAH units as per the Management, Storage and Import of Hazardous Chemical Rules, 1989.

13. The Tribunal, by the order dated 03.06.2021, passed in OA No. 287/2020, held that without prior EC, the units cannot be allowed to operate and that the State has no power to exempt the requirement of prior EC or allow the units to function without EC upon payment of compensation. The direction of the Tribunal in the order dated 03.06.2021 is as follows: -

“xxx

xxx

xxx

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.”

14. The above order of the Tribunal was challenged before the Hon’ble Supreme Court in various Civil Appeals such as Civil Appeal No. 2881/2021, 4432/2021, 4431/2021, 4654/2021 and 4748/2021. The Hon’ble Supreme Court by order dated 16.08.2021 passed in other Civil Appeal No. 4654/2021 and 4748/2021 while issuing notice had passed following interim order: -

“Issue notice.

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.

Tag with Civil Appeal No. 2881/2021.

List on 25.08.2021.

It will be open to the respondents to file their counter affidavit in the meanwhile.”

15. The above interim order was clarified by the Hon’ble Supreme Court by the subsequent order dated 25.08.2021 passed in Civil Appeal No. 2881/2021, 4432/2021, 4431/2021, 4654/2021 and 4748/2021 by directing as under:-

“Applications for deleting the proforma respondents are allowed. 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.”

16. The Civil Appeal No. 4795/2021 in the matter of M/s Pahwa Plastics Pvt. Ltd. & Anr. vs. Dastak NGO & Ors. filed by the Respondents No. 4 and 6 against order of the Tribunal dated 03.06.2021 passed in OA No.

287/2020 have been allowed by the Hon'ble Supreme Court by order dated 25.03.2022 by directing as under:-

“xxx

xxx

xxx

67. Accordingly, the appeal is allowed. The impugned order is set aside in so far as the same is applicable to the units of the Appellants established and operated pursuant to CTE and CTO from the HSPCB in respect of which applications for ex post facto EC have been filed. The Respondent shall take a decision on the applications of the Appellants for EC in accordance with law within one month from date. Pending decision, the operation of the Pahwa Yamuna Nagar Unit and the Apcolite Yamuna Nagar Unit, in respect of which consents have been granted and even public hearing held in connection with grant of EC, shall not be interfered with.

68. The Appellants will be allowed to operate the units. Electricity, if disconnected, shall be restored subject to payment of charges, if any. If the application for EC is rejected on the ground of any contravention on the part of the Appellants, it will be open to the Respondents to disconnect the supply of electricity.

69. The Union of India had proceeded with the application for EC and even public hearing had been held. Counsel appearing on behalf of the Union of India contended that the Appellant had not submitted its final application for EC, after public hearing. It is not clear what more was required of the Appellants. Be that as it may, the Union of India shall, within three working days from the date of receipt of a copy of this judgment and order, inform the Appellants in writing of whether anything further is required to be done by the Appellants, and if so what is required to be done. The Appellants shall, within a week thereafter do the needful. The final decision on the application of the Appellants for EC shall be taken within three weeks thereafter.”

17. The other Civil Appeals i.e. Civil Appeal No. 4654/2021 filed by the Respondent No. 5 and Civil Appeal No. 4908/2021 filed by Respondent No. 7 are still pending for consideration before the Hon'ble Supreme Court.

18. Learned counsel appearing for the Respondent Nos. 2 to 9, referring to the order dated 02.03.2022, has pointed out that these Civil Appeals are part-heard.

19. Thus, we find that the Tribunal has already taken the view in the order dated 03.06.2021 passed in the OA No. 287/2020 that without prior EC the Respondents units cannot be allowed to operate and challenge to

20. Learned counsel for the Applicant has placed reliance upon the recent order of the Hon'ble Supreme Court dated 16.05.2025 passed in the case of *Vanashakti vs. Union of India*, Supra where the Hon'ble Supreme Court has taken the view that *ex-post facto* EC cannot be granted under the EIA Notification 2006. Accordingly, the Hon'ble Supreme Court had directed as under: -

- a) We hold that the 2017 notification and the 2021 OM as well as all circulars/orders/OMs/notifications issued for giving effect to these notifications are illegal and are hereby struck down;
- b) We restrain the Central Government from issuing circulars/orders/OMs/notifications providing for grant of ex post facto EC in any form or manner or for regularising the acts done in contravention of the EIA notification;
- c) We clarify that the ECs already granted till date under the 2017 notification and the 2021 OM shall, however, remain unaffected.”

22. That apart, we also find in the OA following prayers have been made:

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manufacturing units in the State of Haryana have applied for necessary Environmental Clearances in terms of the EIA Notification S.O. 1533 dated 14.09.2006

- b. Direct the Respondent Board to submit detailed report with respect to the units which have expanded their manufacturing capacity without the necessary approvals.
- c. Direct the Respondent to close the units which have failed to apply for the EC as mandated in terms of the notification of the MOEF.
- d. Direct the Respondent Board to close the operating units which have expanded their manufacturing capacity without prior CTE and EC.
- e. Pass any other orders/ directions which this Hon'ble Court deems fit and proper in favour of the applicant and against the respondents in the interest of justice.

23. So far as prayer (a) is concerned, it has been disclosed that the Respondents No. 2 to 9 have applied for EC under EIA Notification 2006. So far as prayer (b) and (d) are concerned Respondent No. 2 to 6 have categorically stated that none of these Respondents have expanded their manufacturing capacity without the necessary approval. So far as, the prayer clause (c) is concerned, the issue is pending before the Hon'ble Supreme Court in Civil Appeals 4654/2021 and 4908/2021.

24. Thus, even otherwise, in in respect of none of the prayers made in the OA any direction is required at this stage.

25. In view of the above, we are of the view that no ground is made out to issue any direction in the OA.

26. The OA is accordingly disposed of.

Prakash Shrivastava, CP

Dr. Afroz Ahmad, EM

May 21, 2025
Original Application No. 802/2023
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