

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.178/2023/EZ
(I.A. No.66/2023/EZ)

IN THE MATTER OF:

Sanjay Kumar,
S/o Sant Kumar,
Village-Kochahasa, Post-Kochahasa,
District-Arwal, Bihar,
Pin – 804426,

...Applicant(s)

Versus

1. Govt. of Bihar,
Through its Chief Secretary,
Main Secretariat, 4, Deshratna Marg,
Patna, Bihar, Pin – 800001,

2. Shivam Agro Industries,
Through its Owner Abhinna Kumar,
Village-Kochahasa, Post-Kochahasa,
District-Arwal, Bihar,
Pin – 804426,

3. District Magistrate, Arwal,
Arwal, Bihar,

4. Ministry of Jal Shakti,
Through its Secretary,
e-Governance Cell, 6th Floor Cabin,
Shram Shakti Bhawan,
Rafi Marg, New Delhi,
Pin – 110001,

...(Deleted vide order dtd.06.12.2023)

5. Ministry of Environment, Forest and Climate Change,
Through its Secretary,
Indira Paryavaran Bhavan, Jorbagh Road,
New Delhi,

6. Central Ground Water Board,
Through its Regional Director,
Mid-Eastern Region, 6th & 7th Floor,
Lok Nayak Jai Prakash Bhawan, Patna,
Pin – 800001,

7. Bihar State Pollution Control Board,
Parivesh Bhawan, Patna Mall Road,
Patliputra Industrial Area,
Digha, Patna, Bihar,
Pin – 800010,

8. State Environment Impact Assessment Authority, Bihar,

Through its Member Secretary,

2nd Floor, Beltron, Baldev Bhawan Road,

Shastri Nagar, Patna, Bihar,

Pin – 800023,

...(Deleted vide order dtd.06.12.2023)

9. Department of Irrigation,

Government of Bihar,

Through its Additional Chief Secretary,

Sinchai Bhawan, Patna, Bihar,

Pin – 800015,

...(Deleted vide order dtd.06.12.2023)

...Respondent(s)

Date of hearing: 30.04.2024

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Ms. Renu, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Surendra Kumar, Adv. for R-1&3, (in Virtual Mode)
Mr. Apurba Ghosh, Adv. for R-5, (in Virtual Mode)
Mr. Ashok Prasad, Adv. for R-6,
Ms. Amrita Pandey, Adv. for R-7, (in Virtual Mode)

ORDER

1. Ms. Renu, learned Counsel is present (in Virtual Mode) for the Applicant.
2. This Original Application has been filed by the Applicant alleging that in Village Kochahasa, Block and District – Arwal in Bihar, there is a waterbody running parallel to the Karpi-Imam Ganj Road. The length of the waterbody is stated to be one kilometer and the width about 100-150 feet.
3. It is stated that the waterbody is the main reservoir and water storage of the village and primary source of rainwater harvesting. The Plot No. of the waterbody is 559 and the Canal is adjacent to Plot No.202. It is stated that on 04.07.2017, one Mr. Abhinna Kumar had gifted a portion of agricultural land converted commercially, to his wife Ms. Mita Devi through Gift Deed.

4. It is stated that the Land Revenue Map still shows the existence of canal to the east of Plot No.202. It is alleged that an illegal road has been constructed on the water reservoir being Plot No.559.
5. It is alleged that the Respondent No.2, Shivam Agro Industries Private Limited, which is an Agricultural and Allied Activities Company, has started its business on Plot No.202 in the year 2017.
6. It is alleged that the company has been discharging effluents without proper treatment into the waterbody thereby impacting the ecosystem as well as the village community's health.
7. It is also alleged that the Respondent No.2 has not obtained the necessary clearances under the Water (Prevention and Control of Pollution) Act, 1974, (hereinafter called 'the Water Act 1974') and The Air (Prevention and Control of Pollution) Act, 1981, (hereinafter called 'the Air Act 1981').
8. The allegation further is that the Rice Mill generates waste in the form of husk, bran and the other bi-products. It is also alleged that the Hon'ble Minister for Irrigation, Government of Bihar, in reply to a query raised in the Legislative Assembly, Bihar, has given the following answers: -

<i>"starred questions no.3638 (short 67) received from Shri Ajit Kumar Singh, MLA</i>	<i>Response to be given from Sri Santosh Kumar Suman, Honourable Minister, Minor Water Resources Dept.</i>
<i>(1) Is it true that in Kochahasa village under Arwal District, Karpi block the water reservoir which runs parallel to the Imamganj-Karpi main road, is the main source of water reservoir of the village?</i>	<i>Affirmative</i>

(2) <i>Is it true that by encroaching on that reservoir a 60 feet wide and 100 feet long road has been constructed in it for private business purpose?</i>	<i>Partially affirmative</i> <i>Road is 20 feet wide and 100 feet long</i>
(3) <i>Is it true that a private boundary wall has also been constructed for business by surrounding about 15 decimal land of the reservoir?</i>	<i>Affirmative</i>
(4) <i>If the answers to the above sections are in the affirmative. So, the government intends to free the reservoir from illegally occupied land and illegally constructed roads and take action against the culprits for encroachment in the said reservoir, otherwise.</i>	<i>By letter no.220 dated 07.03.2022 of Executive Engineer, Minor Irrigation Division Arwal, a request has been made to Circle Officer Karpi for demarcation of the reservoir. Once the encroachment has been removed, the work will proceed in accordance with the established departmental priorities and procedures.”</i>

9. The allegation of the Applicant is that till date, nothing has been done and the Respondent No.2 Rice Mill is polluting the area in question.
10. At the time of admission, the Tribunal constituted a Committee comprising of the following members: -
- (i) *Senior Scientist, Bihar State Pollution Control Board;*
 - (ii) *District Magistrate, Arwal, Bihar or his representative Officer not below the rank of Additional District Magistrate (A.D.M.);*
and
 - (iii) *District Representative of the Department of Irrigation, Government of Bihar,*

11. The Committee was required to visit the site in question and submit its Report with regard to the allegations made in the Original Application within three weeks. The Committee was also directed that in case violations are found, the Committee shall recommend penalty as well as Environmental Compensation and also suggest remedial measures, if any.
12. District Magistrate, Arwal, Respondent No.3, has filed affidavit dated 17.01.2024 bringing on record an Inspection Report of an inspection carried out on 12.01.2024 has been filed as Annexure-R, which reads as under:-

“Inspection Report of the Joint Committee by the Hon’ble NGT vide its order dated 06.12.2023 in the matter of O.A. No.178/2023(EZ).

Date of inspection: 12.01.2024.

1. *The Hon’ble NGT vide its order dated 06.12.2023 in the matter of O.A. No.178/2023 (EZ) constituted a Joint Committee comprising of:-*
 - a. *The Senior Scientist, Bihar State Pollution Control Board;*
 - b. *The District Magistrate, Arwal, Bihar, or his representative officers not below the rank of Additional District Magistrate (ADM); and*
 - c. *District Representative of the Department of Irrigation, Govt. of Bihar.*
2. *The Bihar State Pollution Control Board nominated Sri Arun Kumar, Board Analyst (Senior Scientist) vide letter No. P/Legal-52/2023/2851, dated-18.12.2023 for the said inspection.*
3. *The District Magistrate, Arwal nominated the Additional District Magistrate (A.D.M. Arwal) in her behalf vide order no. 1071/Legal, dated- 22.12.2023.*
4. *The Additional District Magistrate, Arwal has fixed a date of inspection on 12.01.2024.*

5. Accordingly, the inspection was carried out on 12.01.2024 during which the committee was assisted by Sri Sanjay Kumar, Circle Officer, Karpi, Arwal along with Revenue Karamchari and Amin. Sri Abhinna Kumar, S/o Sri Sharda Nand Singh, Proprietor of M/s Shivam Agro Industries, Kochahsa, Karpi, PS- Kinjer, Dist- Arwal and Sri Shivam Kumar, S/o Sri Abhinna Kumar, Representative of the unit along with other staff were also present during the inspection.
6. M/s Shivam Agro Industries, Kochahsa, Karpi, PS- Kinjer, Dist- Arwal is a Par-boiled Rice Mill. It is a seasonal unit operating from November/ December to May/ June. The unit was found operational during the visit of the joint committee along with the supporting staff.
7. The unit is located at GPS location 25.208768; 84.7494291 and having the boundary as below:-
 - a. North - Vacant Agricultural Land.
 - b. South - Vacant Agricultural Land.
 - c. East - Approach Road from Immamganj – Karpi-Menhdiya Road
 - d. West - Vacant Agricultural Land.
8. It is a par-boiled rice mill having a capacity of 06 MT/hr. The Mill has the following regulatory clearances/permission/consent:-
 - a. Consent-to-Establish (NOC) vide letter no. 705, from Bihar State Pollution Control Board, Patna.
 - b. Consent-to-Operate (Emission) vide letter No. 1642 dated 29.09.2023 (valid up to 28.09.2028) from Bihar State Pollution Control Board, Patna.
 - c. Consent-to-Operate (Discharge) vide letter no. 1643, dated- 29.09.2023 (valid up to 28.09.2028) from Bihar State Pollution Control Board, Patna.
 - d. NOC for extraction of ground water from the Central Ground Water Authority vide NOC No.- COWA/NOC/IND/ORIG/ 2023/19356, dated- 04.10.2023, valid up to 03.10.2026.
9. The Circle Officer, Karpi, Dist- Arwal has submitted his report vide letter no. 74, dated-12.01.2024 in the light of allegations made by petitioner which is as follows:-
 - a. Presently, there is no encroachment on the Govt. land by the said unit.
 - b. The length & width of the approach road is 100 feet and 20 feet respectively.

c. The approach road was constructed under the Mukhyamantri Kshetra Vikash Yojana by the order of Zila Yojana Karyalay (District Planning Office, Arwal) vide letter no. 341/ Zi.Yo., dated- 25.09.2018 during the financial year 2018-19 on the recommendation of the Hon'ble Member of Legislative Assembly, Sri Satyadeo Singh.

10. During the inspection it was found that the low lying area running along with Imamganj- Karpi-Kurtha road is an Aahar and not as a Jalashaya.

11. The unit is processing paddy to produce par-boiled rice. The manufacturing process involves pouring of paddy into feeder followed by sieving through sieve (Chalna). Then, it is lifted into hopper through elevator. This hopper storage is connected with series of 08 Handi having capacity of 04 tonne each. Therefore, the total processing capacity is 32 tonne/batch. The paddy is soaked in water for about 08 hrs., after that it is baked with steam to 120-140°C. After that the steamed boiled paddy is sent to dryer. The dried paddy goes to the milling section for de-husking followed by shorting and polishing in polishing machine. The polished rice is packed and sent for sale. The husk generated after the milling is collected in hopper of boiler section. It is used as fuel in boiler for steam generation.

12. The flow chart of the processing is mentioned as below:-

Paddy Feeder → Chalni (sieve) → Bucket Elevator → Hopper Storage → Handi (4+4; each Handi with a capacity of 04 tonnes, Total capacity per batch 32 tonnes) → Soaking (08 to 10 hrs.) Steam baking → Drying → Milling → De-husking → Shorting → Packaging → Out for sale.

13. The Unit has two bore wells for ground water requirement. The Unit has obtained NOC from Central Ground Water Authority for extraction of ground water (80 m³/day or 24000 m³/year). The area belongs to safe category as per the permission granted by the CGWA. It is valid up to 03.10.2026.

14. The Unit has a paddy husk fired boiler of 04 tonne/hour steam generation capacity. The flue gas coming from the boiler is passed through a cyclone separator and air pre heater as air pollution control device. The ash generated from the boiler is transported to its own land for low lying area filling.

15. The unit has a MS stack of 30 meters height. The same was verified by the committee from the ground level.

16. *The unit has established an Effluent Treatment Plant (ETP) of 20 KLD capacity. The ETP consists of Bar Screen Chamber, Oil and Grease Trap, Equalization Tank, Flash Mixture, Tube Settler, Sludge Drying Beds, Treated Water Collection Tank, Pressure Sand Filter, Activated Charcoal Filter, Chlorine Dosing& Storage Tank. The treated effluent from the final storage tank is reused for soaking of paddy. Samples were taken from inlet of ETP, final treated effluent water going to storage tank and from the Aahar on either side of the approach road for analysis at the Central Laboratory, Bihar State Pollution Control Board, Patna. The analysis report shall be submitted after the analysis.*
17. *There was no any discharge outside from the premises of the unit.*
18. *The unit has constructed septic tank and soak pit for domestic waste water.*

19. **Recommendations:**

- a. *The unit shall operate its ETP regularly during the operation of the Plant.*
 - b. *The unit shall ensure that there is no any discharge outside the premises. If any, it shall conform to the discharge standards.*
 - c. *The unit shall expedite for Zero Liquid Discharge (ZLD) to avoid any pollution issues.*
 - d. *The unit shall ensure the quality of treated effluent and comply the norms as mentioned in the consent condition.*
 - e. *Tree plantation shall be carried out along the boundary wall and in the vacant land.”*
13. We have heard Ms. Renu, learned Counsel appearing for the Applicant as well as Mr. Surendra Kumar, Mr. Apurba Ghosh, Mr. Ashok Prasad and Ms. Amrita Pandey, learned Counsel appearing for the Respondents.
14. A perusal of the Inspection Report shows that the Respondent No.2 Unit has valid Consent to Establish issued on 07.06.2022; valid Consent to Operate issued on 29.09.2023 valid upto 28.09.2028, both issued by the Bihar State Pollution Control Board; the Unit also has a valid Consent to Operate dated 29.09.2023 valid upto

28.09.2028 issued by the Bihar State Pollution Control Board, Patna; and a No Objection Certificate (NOC) for extraction of ground water has also been issued by the Central Ground Water Authority on 04.10.2023 valid upto 03.10.2026.

15. The Report further discloses that there is no encroachment on Government land by the Unit; the length & width of the approach road is 100 feet and 20 feet which was constructed under the Mukhyamantri Kshetra Vikash Yojana by order of the Zila Yojana Karyalay dated 25.09.2018 during the financial year 2018-19.
16. During inspection it was also noticed that low lying area running along Imamganj-Karpi-Kurtha road is an Aahar and is not a Jalasaya land. The Inspection Report further discloses that the Unit of Respondent No.2 has two bore wells for ground water requirement and an NOC was also issued by the Central Ground Water Authority for extraction of ground water (80 m³/day or 24000 m³/year).
17. The Report categorically mentions that the Unit has established an Effluent Treatment Plant (ETP) of 20 KLD capacity and the treated effluent from the final storage tank is reused for soaking of paddy; there was no discharge to the outside the premises of the Unit; and the Unit has constructed a septic tank and soak pit for domestic waste water.
18. The Joint Committee Report has not been disputed by the Applicant.
19. The Central Ground Water Board, Respondent No.6, has filed affidavit dated 04.01.2024 reiterating the fact that the Board has granted No Objection Certificate (NOC) to the Respondent No.2 Unit to abstract ground water vide certificate dated 04.10.2023.

20. From the documents on record and the Inspection Report, we find that there is no illegal construction or encroachment made by the Respondent No.2 with reference to the water reservoir of the District Arwal nor is there any dumping of solid waste by the Respondent No.2 and the Respondent No.2 Unit is also in possession of the necessary clearances under the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, from the authorities concerned.
21. In view of the above facts, the Original Application No.178/2023/EZ is thoroughly misconceived, devoid of merit and is accordingly dismissed.
22. I.As. if any, stand disposed of accordingly.
23. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

April 30, 2024,
Original Application No.178/2023/EZ
(I.A. No.66/2023/EZ)
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