

Item No.03

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

(By Virtual Mode)

Original Application No.88/2023(CZ)

Devidas Khatri

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 24.08.2023

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

For Applicant(s) : Mr. Rohit Kumar Tuteja, Advocate

ORDER

1. Heard Shri Rohit Kumar Tuteja, Advocate appearing for applicant and perused record.

2. This Original Application (hereinafter referred to as '**OA**') under Sections 14, 15 and 18(1) of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**'), has been filed by Devidas Khatri complaining that respondents no. 5 to 17 are illegally and unauthorizedly extracting ground water on the basis of No Objection Certificates (hereinafter referred to as '**NOC**') obtained from Central Ground Water Authority (hereinafter referred to as '**CGWA**'), on the basis of an Audit Report prepared by Sachin Kumar Sharma, claiming himself to be Accredited Water Auditor authorized by National Productivity Council (hereinafter referred to as '**NPC**'), though NPC has not authorized any person including Mr. Sachin Kumar Sharma, as stated in the reply letter dated 31.01.2023, sent by NPC on an RTI inquiry made by Shri Saurabh Gupta, resident of 230-E Block, Rajasthan High Court, Jaipur, therefore, NOC from CGWA were obtained by respondent 5 to 17 on an

unauthorized and illegal Audit Report, hence, all NOCs are vitiated in law, resulting in extraction of ground water by respondent no.5 to 17 illegally and unauthorizedly.

3. We find that this OA has been filed after expiry of the validity period of NOCs issued to most of the respondents. Copies of various NOCs of 19 proponents collectively has been filed as Annexure A-3. Validity period of all NOCs is given in the form of Chart as under:

S. No.	Name of project/ Proponent	Validity Period	Quantity of Extraction of ground water permitted per day
1.	Kanchan India Ltd. (respondent 10)	03.11.2020- 02.11.2022	680 KLD/m ³ per day
2.	RSWM Ltd. (Unit Mandpam) (not impleaded)	31.05.2021-30.05.2023	410 KLD/ m ³ per day
3.	RSWM Ltd. (Unit Kanya Khedi) (not impleaded)	09.01.2021-08.01.2023	60 KLD/ m ³ per day
4.	Ranjan Polyesters Ltd. (not impleaded)	25.03.2021-24.03.2023	135 KLD/ m ³ per day
5.	M/s Sona Processors India Ltd. (respondent 17)	03.11.2020-02.11.2022	380 KLD/ m ³ per day
6.	Saileela Processor Pvt. Ltd. (not impleaded)	03.12.2021-02.12.2023	409 KLD/ m ³ per day
7.	BSL Ltd. (respondent 13)	01.01.2010-31.12.2011	185 KLD/ m ³ per day
8.	Puja Spintex Pvt. Ltd. (respondent 14)	18.09.2021-17.09.2023	341 KLD/ m ³ per day
09.	Sulzer Processor Pvt. Ltd. (respondent 11)	14.08.2021-13.08.2023	142.25 KLD/ m ³ per day
11.	Bhilwara Processor Ltd. (not impleaded)	03.06.2021-02.06.2023	520 KLD/ m ³ per day
12.	Shri Anant Syntex Ltd. (respondent 7)	02.06.2021-01.06.2023	560 KLD/ m ³ per day
13	A.K. Spintex Ltd. (respondent 6)	03.06.2021-02.06.2023	470 (saline water) KLD/ m ³ per day
14.	Super Gold Suiting	25.09.2020-24.09.2022	126 KLD/ m ³ per

	Pvt. Ltd. (respondent 16)		day
15.	Sangam Spinners (respondent 12)	01.01.2020-31.12.2022	395 KLD/ m ³ per day
16.	Sangam India Ltd. (Process Div.) (respondent 9)	24.06.2021-23.06.2023	427 KLD/ m ³ per day
17.	RSWM Ltd. (Khadigram Unit) (not impleaded)	03.09.2021-02.09.2023	750 KLD/ m ³ per day
18.	Nitin Spinners Ltd. (respondent 15)	04.05.2020-03.05.2022	300 KLD/ m ³ per day
19.	Sarvodaya India Ltd. (not impleaded)	16.10.2020-15.10.2022	395 KLD/ m ³ per day

4. The above chart shows that proponents at serial no. 2, 3, 4, 6, 11, 17 and 19 are not party to the present OA but their documents have been placed on record and that the validity period has expired on 30.05.2023, 08.01.2023, 24.03.2023 in respect of proponent at serial no. 2, 3 and 4 and 02.06.2023 and 15.10.2022 in respect of proponent at serial no. 11 and 19. Proponent at serial no. 17 is not a party to the present OA, and in its case, validity period will expire after a week i.e., on 02.09.2023. In respect of impleaded respondents 10, 17, 13, 11, 7, 6, 16, 12, 9 and 15, the validity period expired on 02.11.2022, 02.11.2022, 31.12.2011, 13.08.2023, 01.06.2023, 02.06.2023, 24.09.2022, 31.12.2022, 23.06.2023 and 03.05.2022. Only respondent 14 is the proponent whose NOC's validity period is subsisting but will expire after almost 23-24 days i.e., on 17.09.2023.

5. The above chart shows that validity period of NOC, in most cases, has already expired long back. In one matter, it had expired in 2011 i.e., almost 12 years back and yet these documents have been placed on record.

6. Further, many NOCs which have been placed on record, relate to proponents who are not impleaded as respondents. All these facts have not been disclosed by applicant in OA.

7. Even in some of the cases, NOCs have been issued prior to CGWA Guidelines dated 20.09.2020, notified by Ministry of Jal Shakti, Government of India and in one case, quantity of extraction of ground water permitted is only 60 KLD i.e., Cubic meter per day. The Guidelines are applicable only where extraction of ground water is sought in excess of 100 cubic meter per day otherwise annual water audit is not required.

8. Applicant therefore, firstly has approached this Tribunal by challenging the documents which have already outlived their utility; secondly, many documents are not covered by the Guidelines; thirdly, in some cases, NOCs have expired almost a decade back and lastly, NOCs of the proponents who are not parties to this OA cannot be examined. All these facts have not been disclosed which show that applicant has not approached this Tribunal with clean hands and the objective is something else. Even the so called Policy has not been placed on record. We, therefore, don't find that any substantial question relating to environment due to implementation of Scheduled enactments under NGT Act, 2010 has arisen which require interference by this Tribunal in the present case.

9. In the peculiar facts and circumstances as noted above, this application is dismissed.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 24, 2023
Original Application No.88/2023(CZ)
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