

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO. 36 OF 2023 (WZ)

Hiren Mayurbhai Rathod ... **Applicant**

Versus

State of Gujarat & Ors. ... **Respondents**

Date of Hearing : 26.11.2024

**CORAM : HON’BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON’BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Hardik Dhandukiya, Advocate

Respondents : Ms. Manvi Damale, Advocate holding for Mr. Maulik Nanavati,
Advocate for R-2/GPCB
Mr. Rahul Garg, Advocate for R-3/MoEF&CC
Mr. Aniruddha Kulkarni, Advocate for R-4/CPCB
Mr. Mehul Shah, Senior Advocate, i/b and with Mr. Mehul M. Mehta,
Advocate for R-5/Project Proponent

ORDER

1. Learned counsel for the applicant is claiming to have filed rejoinder to the affidavits filed by respondent No.2 – GPCB and respondent No.5 – Project Proponent, way back in February, 2024, but the same is not found on record. We direct the Registry to place the same on record if it is filed. We also direct the leaned counsel for the applicant to again submit a copy of the rejoinder through e-mail.
2. From the side of respondent No.3 – MoEF&CC, learned counsel Mr. Rahul Garg has appeared and submits that the reply has been filed on 20.11.2024 though it is a formal party, but that reply is not on record. We direct the Registry to restore the same. We also direct learned counsel for respondent No.3 to submit a copy of the said reply through e-mail.
3. From the side of respondent No.4 – CPCB and respondent No.5 – Project Proponent, reply-affidavits have been filed, which are on record.

4. Perusal of the order-sheet indicates that the main prayer, which has been made by the applicant, is regarding closure direction to be issued against respondent No.5 – Geo Cleaner LLP, which is manufacturing alternate fuel i.e. solid mix/liquid mix. It is also alleged that respondent No.5 has not followed the procedure laid down in the Hazardous and Other Wastes (Management and Transboundary Movements) Rules, 2016.

5. We also find that there is an inspection report submitted on record by respondent No.2 – GPCB, which is annexed at pages 276 to 283 of the paper-book, in which no violations have been found on the part of respondent No.5. Another affidavit dated 29.11.2023 has been filed by respondent No.2 – GPCB (pages 290 to 294 of the paper-book), wherein it is recorded that another inspection was made of the unit of respondent No.5 on 03.07.2023 and no contaminated waste water was observed. We do not find any violation on the part of respondent No. 5 to have been found by respondent No.2. It is submitted that last inspection was made by respondent No.2 – GPCB on 18.11.2023, wherein also, no violation on the part of respondent No.5 was found.

6. Learned counsel for the applicant submits that he has evidence to show that the violations have been committed by respondent No.5 and prayed that a direction may be issued that another inspection may be conducted by respondent No.2 – GPCB to know about the current status in respect of the violations on the part of respondent No.5. We are not in agreement with the submission and prayer made by the learned counsel for the applicant because till filing of the application, whatever cause of action arose, we have to consider that cause of action and accordingly, we are considering the same in the present matter. If any new cause of action arises to the applicant, it would be a new case. Since the learned counsel for the applicant is insisting that he has evidence to show the violations on the part of respondent No.5 and that respondent No.2 – GPCB has not given any period of non-compliance on the part of respondent No.5, nor any

amount towards Environmental Damage Compensation (EDC) has been calculated by it for the period for which respondent No.5 has remained non-compliant, we direct that respondent No.2 – GPCB shall calculate the amount of EDC for such period of non-compliance on the part of respondent No.5 and the same be submitted before this Tribunal by way of an affidavit, specifically mentioning therein as to what were the non-compliances made by respondent No.5, pursuant to which, we will pass further/final order with respect to EDC, to be levied from and realized from respondent No.5, if required, as we find that no closure order has been issued as they did not find any non-compliance on the part of respondent No.5. This affidavit shall be filed by respondent NO.2 – GPCB within two weeks from the date of uploading of this order positively, with a direction that a copy of the said affidavit be served in advance on all other parties and rejoinder thereto, if any, be filed within two weeks thereafter.

7. Put up this matter for next consideration/final order on 17.03.2025.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 26, 2024
ORIGINAL APPLICATION NO.36/2023
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