

Item No.9

(Pune Bench)

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

[Through Physical Hearing (With Hybrid Option)]

**ORIGINAL APPLICATION NO.78 OF 2023 (WZ)**

Hasmukh Bhai Bahecharbhai Parmar

.... Applicant

Versus

Alkem Laboratories Ltd. & Anr.

....Respondents

Date of hearing : 12.03.2024

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

Applicant : Applicant-in-Person present through VC

Respondents : Mr. Arun Siwach, Advocate for R-1  
Mr. Maulik Nanavati, Advocate along with  
Ms. Manvi Damle, Advocate for R-2

**ORDER**

1. This order is being passed in continuation to our earlier orders dated 23.05.2023, 07.07.2023 and 27.07.2023.
2. From the side of the applicant, he has appeared in person through VC.
3. From the side of respondent No.1 – Alkem Laboratories Ltd., learned counsel Mr. Arun Siwach has appeared, though no written reply has been filed.
4. From the side of respondent No.2 – GPCB, learned counsel Mr. Maulik Nanavati has appeared.
5. By our previous order dated 27.07.2023, we had directed the learned counsel for respondent No.2 – GPCB to submit reply-affidavit with respect to the allegations made by the applicant in the Original Application, particularly in respect of the fire occurrence in the premises of

respondent No.1 – Alkem Laboratories Ltd. An affidavit has been submitted by respondent No.2 – GPCB, wherein following is stated:

*“3. An incident of fire occurred in the production plant of the 1st respondent on 10.12.2022 who is inter cilia engaged in the business of manufacturing pharmaceutical chemicals.*

*4. The fire is alleged to have started at around 1130 hours on 10.12.2022. Intimation about incident of fire was given by the applicant to the Board around 1153 hours. The Board independently also received information about the incident of fire in the factory.*

*5. One person Mr. Brijesh Vishpute (Senior Executive — EHS) working in the industrial unit suffered injury while attempting to break emergency glass for the purpose of carrying out rescue activity. He was treated for the minor injury sustained by him at Jayaben Modi Hospital. He was given primary medical treatment and issued a fitness certificate on 12.12.2022.*

#### **IMMEDIATE ACTION FOLLOWING ACCIDENT**

*6. Officials from the Fire Department, Directorate of Industrial Safety and Health, Pollution Control Board and other statutory authorities rushed to the site of accident. All authorities conjointly, together with the management of the 1st respondent, took necessary steps for dousing the fire and controlling the damage caused by the accidental fire.*

*7. The fire started at around 11:30am and the same was extinguished by around 1215 hours. The preliminary report indicated that fire had occurred when ML was being transferred from the tank to the drum for the purpose of production of Aripiprozle.*

*8. Instructions were given by the officials of the statutory authorities, including the Pollution Control Board, for safe and environment friendly disposal of the water used for dousing the fire and burnt waste generated during fire. Samples were collected of the contaminated water / waste water generated from fire fighting activity. Ambient air quality was constantly monitored by the officials of the Pollution Control Board.*

9. The exact cause of fire could not be ascertained immediately. As regards extent of damage, it was noticed that fire had engulfed only a particular section of the industrial plant i.e Plant-4, and that other areas of the plant were not affected in any manner by the incident of fire.

10. Pending inquiry and investigation, a direction was issued by the Inspector under the Factories Act, 1948 prohibiting further use of the entire Production Area 4, which was involved in the accident of fire. Since the other areas were visibly found to have not been touched, much less affected, by the fire no need was felt for shutting down operations in the other areas of the industrial plant. Similarly, a direction for closing the operations in the entire Production Area 4 was issued by the Pollution Control Board on 6.01.2023. A copy of direction for closure of the unit issued by Pollution Control Board is annexed herewith and marked as **Annexure R-i**.

#### **ACTION BY POLLUTION CONTROL BOARD**

11. Pollution Control Board is concerned with impact of discharge of pollutions, even if such discharge is unintended and caused due to an accident, on the environment, including damage that may have been caused to the environment (air, water and soil)

12. In the present case, the Pollution Control Board had issued instructions to the factory for disposal of the contaminated water I waste water generated from fire-fighting activity and disposal of burnt waste within the premises. Same was complied by industry. Approximately 8.5 kilolitre of fire water from in house fire hydrant system and 3 fire tenders of DPMC/Fire station were used for firefighting. Entire fire fighting water was collected and transferred to in house ETP for further treatment and was treated in RO and then MEE to maintain ZLD. The entire quantity of wastewater was disposed of in a safe and

*environment friendly manner by the factory. This aspect was supervised and later confirmed during inspection on 07.02.2023.*

**13.** *Some of the plant machinery of plant 4 of the factory got damaged in the fire. Approximately 40 tonnes of debris, in the form of burnt process waste, charred remains of metals i.e scrapes, pipes, valves & waste insulation material got generated in the accident. The same was instructed to be disposed of by the Pollution Control Board in a scientific manner since it was believed that there would be presence of chemicals in the debris. Accordingly, the quantity of 5.690 tonnes of burnt process waste was sent to RSPL on 28.08.2023 and other waste like metal, scrap, pipes, valves, wires etc. is stored in premises as presently under custody of insurance company.*

14. *During inspection on 10.12.2022 ambient air quality was monitored by the Pollution Control Board using handy gas analyser and presence of VOC was observed near production plant where fire occurred and 10 meters away from production plant as 2.2ppm and 0.5 ppm respectively. At the time of inspection, the ambient air quality was reported to be poor. However, air quality improved after the fire was doused at the site. No cases of any respiratory problem having been suffered by persons in surrounding areas were reported or otherwise observed.*

#### **ENVIRONMENT DAMAGE & COMPENSATION**

**15.** *The material collected at the time of accident and thereafter, and now available on record, permitted a judicious conclusion that incident of fire which took place in the factory of the 1<sup>st</sup> respondent did cause damage to the environment. However, the Board has not been able to determine the nature and extent of damage caused by the accidental fire.*

**16** *I submit that compensation is a natural sequitur and necessary consequence to violation of environmental laws. Once it is prima facie established that a particular industrial unit has violated environmental norms or is responsible for causing damage to the environment, such unit stands liable, both in fact and in law, to paying compensation.*

**17.** *The amount of compensation is ordinarily calculated on the basis of formula prescribed by the Central Pollution Control Board.*

However, in the present case, as the extent of damage is unascertainable, the State Pollution Control Board has, relied upon one of the available parameter - ambient quality at the time of inspection and fire incident, and basis the results suggesting the air quality to be between 'moderate to poor' assessed Rs. 10,00,000/- as interim environment damage compensation. The 1st respondent has deposited the entire amount of Rs. 10 lacs with the Board.

### **PRESENT STATUS**

18. The Inspector under the Factories Act, 1948 has lifted the prohibition on use of Powder processing area of Production Plant 4 after satisfying itself about the structural stability and other safety issues. Basis the report of Directorate of Industrial Safety and Health which initially granted partial revocation of the shut down direction and later complete revocation of the shut down direction, the Board initially issued trial revocation order 22.03.2023. The only activity permitted in Plant-4 was in powder processing area. During this period, the unit operated properly and no environmental hazards were noticed in the functioning of the industry. The trial revocation was therefore extended for a period of 03 months on 27.07.2023.

19. On finding the performance of the industrial unit to be proper and in compliance with safety standards and environmental laws, a permanent revocation was issued for only powder processing activity in the area of Plant 4 on 5.12.2023.

20. The unit has made an application for permanent revocation of the closure order for the entire production area of Plant-4, which is under process.

21. Today unit is complying with the directions issued by Board and DISH has lifted prohibition order on operation of Plant-4 vide letter dated 14/09/2023.

### **GRIEVANCE OF APPLICANT**

22. The applicant has voiced 02 grievances :

- (i) Determination of environmental damage compensation, and
- (ii) Mentioning of his name in the incident report prepared by the Board.

23. *As far as the first grievance of the applicant is concerned, the same does not survive now as the Board has already determined the amount environmental damage compensation. An amount of Rs.10 lacs has been assessed by the Board. The said amount has been duly deposited by the 1<sup>st</sup> respondent on 11.01.2023.*

24. *The other grievance of the applicant about having his name highlighted in the incident report is misconceived and not tenable in law. An impression gets gathered from a reading of the prayer that the applicant is publicity hungry and seems to have informed the occurrence of incident of fire for fame rather than towards discharge of civic duty and concern for the environment. Even otherwise, the report has already been prepared and there is no provision in law for the Board to make correction in the incident report regarding mentioning the name of applicant in inspection report dated 10.12.2022.*

**CONCLUSION**

25. *I submit the principal cause for filing of the present application now does not survive and therefore the present application may be disposed of suitably by the Hon'ble Tribunal.*

26. *The Gujarat Pollution Control Board shall abide by any and all reasonable directions or orders that may be issued in this behalf by the Hon'ble Tribunal."*

6. The applicant, who is present in person, has admitted that copy of this reply filed by respondent No.2 – GPCB has been served upon him. When asked as to whether he has any objection against this reply, he states that the amount assessed towards environmental damage compensation (EDC) i.e. Rs.10 lakhs is on lower side because local residents including the applicant have suffered a lot on account of huge smoke which came out from respondent No.1's premises when the fire occurrence had taken place. But he admitted that there is no specific criteria laid down for assessing the EDC for the

damage caused to the environment, as has been mentioned by the GPCB also in their affidavit.

7. It is recorded in the affidavit of respondent No.2 – GPCB that occurrence of fire took place on 10.12.2022 in which one minor injury was caused to an employee by name Brijesh Vishpute, who was given primary medical treatment and was issued a fitness certificate on 12.12.2022, which shows that he was under treatment only for two days. The cause for this occurrence could not be ascertained except that the fire had occurred when Mother Liquid (ML) was being transferred from the tank to the drum for the purpose of production of Aripiprazole. One unit i.e. Plant No.4 of the industry was closed down for a short duration.

8. With respect to EDC, the amount has been calculated to the tune of Rs.10 lakhs for the damage, which was unascertainable by the State Pollution Control Board, but it is recorded that there was no respiratory problem to the local residents and that the ambient quality was adversely impacted. Hence an amount of Rs.10 lakhs was assessed as EDC, which has been deposited by respondent No.1 – Project Proponent with respondent No.2-GPCB.

9. The applicant was concerned about this amount of Rs.10 lakhs to be utilized for the upliftment of the environment in the local area where this respondent No.1 Industry is set up. We are in agreement with his view.

10. We dispose of this Original Application in view of the action taken at the end of the authorities concerned and we direct respondent No.2 – GPCB to ensure that an amount of Rs.10 lakhs, assessed as EDC and deposited by respondent No.1 with respondent No.2-GPCB, is utilized for bringing improvement in environment in the vicinity of the unit in question.

11. No order as to costs.

**Dinesh Kumar Singh, JM**

**Dr. Vijay Kulkarni, EM**

March 12, 2024  
O.A. No.78/2023 (WZ)  
npj