

(Pune Bench)

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

(By Video Conferencing)

APPEAL NO. 58 OF 2022 (WZ)

M/s Wanksons Chemical Industries Pvt.Ltd. Appellant

Versus

Gujarat Pollution Control Board and others Respondents

Date of hearing: 23.12.2022

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

Applicant : Mr. Aagney Sail, Advocate with Mr. Sudhirschandra
Patil, Advocate

Respondents : ---

ORDER

1. This matter has been mentioned for being taken up today itself by the learned counsel for the appellant because of urgency. We having considered the same to be urgent one, have taken up the same today.

2. This appeal has been preferred against the order dated 16.11.2022 passed by respondent No.1 – GPCB, whereby the closure direction is issued under Section 5 of the Environment (Protection) Act, 1986 for violation of the Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016 (for short, “Rules of 2016”). In the said order, it is recorded by respondent No.1 that the inspection of the industry of the appellant was made on 17.10.2022 under Section 10 of the Environment (Protection) Act, 1986 and several violations were noticed and it was found that the appellant Unit was engaged in illegal transport and movement of hazardous waste which is in violation of the

Rules of 2016. It is further recorded that opportunity of hearing was given to the appellant and non-compliances which are found to have done on the part of the appellant would have damaging effect on the environment and therefore, the impugned order was passed.

3. The learned counsel for the appellant submits that no proper opportunity of hearing was given to the appellant by respondent No.1 in accordance with the procedure laid down in Rule 4 of the Environment (Protection) Rules, 1986, which has been quoted in the memo of appeal in paragraph 17 of the affidavit. Further it is stated that no reason has been given in the impugned order as to why the closure order has been passed. As per the above Rule, a copy of the proposed direction was required to be served on the appellant, giving an opportunity of hearing of not less than 15 days, which has not been done in the present case and the reasons which were supposed to be recorded in the closure order should have been recorded after taking into consideration the objection made by the appellant. It is further urged that though the appellant could not bring on record subsequent order dated 15.12.2022 passed by respondent No.1, a copy of the same has been produced during argument, which is taken on record. In the said order dated 15.12.2022, it has been directed that the appellant unit shall submit remaining 50% EDC with 12% interest per annum within 06 months as per circular of GPCB dated 23.08.2021. The appellant unit shall submit schedule (date and amount with 12% simple interest) for remaining EDC within 30 days.

4. Having cited the above order, it is argued that 50% amount, which is imposed upon the appellant has already been deposited under protest and for the remaining amount, schedule of payment of the same has to be given within 30 days, hence an early date may be fixed for hearing in this matter.

5. Further the learned counsel for the appellant has brought to our notice that the transporter with whom there was an agreement made by the appellant for transporting spent sulphuric acid generated from the manufacturing process in which the appellant is involved, was to be transported from Panoli plant of the appellant to its Nanded plant while the said transporter on his own had diverted it to Madhyabharat Phosphate Pvt. Ltd, Meghnagar, Madhya Pradesh without informing the appellant company and for this, our attention is drawn to Annexure-A8 wherein it has been clearly stated by Shekhawati Transport Co. – respondent No. 2 in a letter dated 22.10.2022 addressed to the appellant. Therefore, it is vehemently argued that there was no fault on the part of the appellant company, rather the transporter who has been engaged for transport of the said acid was at fault because of which this lapse has happened.

6. We admit this appeal and direct the Registry to issue notice to the respondents, returnable within two weeks.

7. The appellant is directed to provide copies of the appeal memo and its annexures for being served on the respondents within three days.

8. The appellant is directed to take necessary steps for service upon the respondents by both ways and also through available e-mail.

9. Put up this matter for next hearing on 11.01.2023. On that date, the application for interim relief would also be heard.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

December 23, 2022
APPEAL NO.58 OF 2022 (WZ)
Npj