

Item No.3

(Pune Bench)

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

(By Video Conferencing)

ORIGINAL APPLICATION NO.73 OF 2022 (WZ)

Babasaheb Mahadev Patil

....Applicant

Versus

M/s Shikshan Maharshi Dnyandeo  
Mohekar Agro Industries Ltd & Ors.

....Respondent(s)

Date of hearing: 18.11.2022

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

Applicants : Ms. Pallavi A. Sarda, Advocate

Respondents : Mr. Divyansh Gore, Advocate for R-1  
Ms. Manasi Joshi, Advocate for R-2  
Mr. A.J. Pathak, Advocate for R-3

**ORDER**

1. From the side of the applicant, learned counsel Ms. Pallavi A. Sarda is present.

2. From the side of respondent No.1/Project Proponent, reply-affidavit has been filed in which it is mentioned that the directions of closure were issued and further improvement and upgradation measures were taken by respondent No.1 and therefore, the application may be disposed of by appropriate order by considering grant of restart orders passed by the Maharashtra Pollution Control Board (MPCB).

3. On behalf of respondent No.2 – MPCB, learned counsel Ms. Manasi Joshi has appeared and orally apprised us that the restart order has been passed on 03.11.2022. She has further pointed out that the closure order was passed on 19.07.2022 (page 89 of the paper-book) for following reasons:-

- (i) Ground water from borewell as well as through tankers was being taken/used by the Project Proponent/respondent No.1 without obtaining NOC from CGWA;
- (ii) The dust collector provided was inadequate. The analysis results of JVS collected from stack and Effluent Treatment Plant to check the air and water quality respectively showed on higher side from the consented limit for parameters like TPM and COD as TPM was observed 685 mg/Nm<sup>3</sup> against consented limit of 150 mg/Nm<sup>3</sup> and COD was observed to be 265 mg/l against consented limit of 250 mg/l.

4. As regards the use of ground water from borewell, the learned counsel for respondent No.2 states that the permission has been taken from Central Ground Water Authority (CGWA), which is valid from 29.07.2022 upto 28.07.2025, a copy of which is annexed at page 139 of the paper-book. We, however, find that the Project Proponent/respondent No.1 had established his industry atleast from 29.05.2018 as that is the date when the Consent to Establish was granted to the Project Proponent. Therefore, we direct respondent No.2 – MPCB to assess the compensation with respect to withdrawal of water from 29.05.2018 to 29.07.2022. While doing so, it would also take into consideration the Public Notice No.3/2022 issued by the Central Ground Water Authority (CGWA) (page 141 of the paper-book), which provides for submission of the application to seek permission for withdrawal of water before 30.09.2022 because that would suggest that even if the industry/Project Proponent did not have permission to withdraw water from the borewell upto 30.09.2022, there was no mandatory provision to take permission for the same.

5. We further direct respondent No.2 – MPCB to assess the damage caused to the environment with regard to dust collector being inadequate and quantify the same. We also find that the TPM of the Project Proponent/respondent No.1 was found to be 685 mg/Nm<sup>3</sup> against consented limit of 150 mg/Nm<sup>3</sup> which was observed to be on higher side. Hence, if any loss is caused to environment on this count, shall be quantified by respondent No.2 - MPCB.

6. Let a report be submitted by respondent No.2 – MPCB by the next date. The learned counsel for respondent No.2 seeks time to file rejoinder-affidavit to the reply-affidavit filed by respondent No.1/Project Proponent. Two weeks' time is granted for the same.

7. From the side of respondent No.3 – Central Ground Water Board, learned counsel Mr. A.J. Pathak has appeared and prays for grant of time of two weeks as he wants to file reply-affidavit and vakalatnama. He is so permitted.

8. Put up this matter for final hearing and order on 05.01.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 18, 2022  
O.A. No.73 of 2022  
npj