

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN BENCH  
CHENNAI  
PRESENTATION FORM  
Appeal No. 43/2023

A Mahesh Chowdhary  
Precinct Legal  
No. 43, TNT Towers  
S-2 Infantry Road  
Bangalore – 560001  
9980666846

District: **Bangalore**

**Between:**

M/s Southern Bakeries

**Appellant**

**And**

Karnataka State Pollution  
Control Board & Ors

**Respondents**

Sl No.	Description of Paper Presented	Court Fee Affixed	
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**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI**

**Appeal No. 43 of 2023**

**BETWEEN:**

M/s Southern Bakeries Pvt. Ltd.,

**...Appellant**

**AND :**

Karnataka State Pollution Control Board & Ors

**...Respondents**

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**Date: 27.02.2024**

**Advocate for Respondents**

**Place: Bangalore**

**A. Mahesh Chowdhary**

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI**

**Appeal No. 43 of 2023**

**BETWEEN:**

M/s Southern Bakeries Pvt. Ltd.,

**...Appellant**

**AND :**

Karnataka State Pollution Control Board & Ors

**...Respondents**

**STATEMENT OF OBJECTIONS OF RESPONDENTS TO  
THE APPEAL FILED BY THE APPELLANT**

1. The Respondent Board denies and disputes all the averments, contentions and allegations raised by the Appellant, in the present appeal and except what has been specifically admitted herein under, in writing, any omission on the part of the Respondent to deal with any specific averment, contention or allegation of the Appellant should not be construed as an admission on the part of the Respondent Board.
2. It is submitted that instead of para wise reply to the averments in the appeal, it is prayed that, allow the instant objections constituting an overall response to the appeal filed by the appellant herein. Therefore, it is humbly prayed to read the same in totality for assessing the facts and nature of the case.
3. At the outset, Respondent submits that the above appeal is liable to be dismissed in limine as being misconceived and not maintainable in law and fact.
4. The appellant has approached this Hon'ble Tribunal seeking to set aside the order/notice dated 12.07.2023 passed by the Respondent Board imposing the Environmental Compensation for a sum of Rs 30,09,375/- against the appellant for non-compliance under the



provisions of the Water Act, 1974, Air Act, 1981 and Environment Protection Act, 1983.

5. It is relevant to state that the entire argument canvassed by the Appellant regarding levying of environmental compensation being arbitrary is false and hence, denied in toto.
  
6. The Respondents contend that the withdrawal of consent and subsequent issuance of closure notices were not arbitrary but were prompted by the serious allegations of illegal waste disposal against the Appellant. The initial withdrawal of consent was a necessary step to investigate and address potential environmental hazards. It was only after a comprehensive inspection that the closure notices were revoked, not only as an admission of the Appellant's compliance but rather as a provisional measure until further investigations could be conducted.
  
7. The Respondents emphasize that compliance with regulations is an ongoing obligation, and the mere revocation of closure notices does not absolve the Appellant of potential liabilities. The subsequent issuance of a notice for environmental compensation is consistent with the legal framework, specifically in alignment with the directives of the Hon'ble NGT in O.A. 324/2021 vide Annexure M. The Respondents argue that imposing environmental compensation serves as a deterrent against future violations and underscores the importance of responsible environmental practices.
  
8. The Respondents assert that the withdrawal of consent and the issuance of closure notices under both the Air and Water Acts were carried out in accordance with the provisions of the Water Act. Sections 24 and 25 of the Act empower the regulatory authorities to



suspend or revoke consents and take necessary actions in case of non-compliance.

9. The Respondents maintain that the Appellant had a fair opportunity to present its case and submit supporting documents during the response to the show-cause notice. The issuance of the demand notice is not arbitrary; rather, it is a culmination of a comprehensive review of the Appellant's responses, evidence, and the severity of the alleged violations. The quantum of compensation is calculated in consideration of the potential environmental impact, and the imposition is seen as a means to rectify and offset any harm caused to the environment.

10. Respondent No. 3 contends that the computation formula considers the period from the date of the first inspection (20/04/2022) to the date of the issuance of the closure order (04/08/2022) as the 'Number of days of violation.' This period is crucial for assessing the duration during which potential violations were observed, and necessary corrective actions were not taken. The formula aligns with the need to deter non-compliance and ensure timely rectification. The computation formula used by Respondent No. 3 reflects the preventive nature of environmental compensation. By considering the entire period from the first inspection to the issuance of the closure order, the formula incentivizes prompt corrective actions and discourages prolonged non-compliance. This approach is aligned with the broader goal of the principle – 'polluter pays'.

11. The Appellant suggests that the demand notice was issued without the application of mind and any rationale. It is imperative to examine the documentation and internal processes followed by Respondent

A handwritten signature in black ink, consisting of a large, stylized initial 'O' followed by a series of loops and a long horizontal stroke extending to the right.

No. 3 leading to the issuance of the demand notice. A comprehensive understanding of the decision-making process will help determine whether due consideration was given, and if the decision was based on a thorough examination of the facts and legal provisions. The Respondent Board before issuing the impugned notice has done the following:

- i. **Proceedings of the meeting held on 31.03.2023** chaired by the Chief Secretary, in terms of the order of the Hon'ble NGT in OA No. 324/2021 vide Annexure M, wherein the Hon'ble NGT had directed the State Pollution Control Board to assess the environmental damage and recover the money from polluting industries in the area since last 5 years and accordingly take actions for recovery of environmental compensation.
- ii. **Show Cause Notice dated 19.06.2023 vide Annexure K** – The Respondent Board after revoking the closure order dated 04.08.2022, had issued a show cause notice to the Appellant to show cause why the Respondent Board shall not raise the demand notice for the collection of environmental compensation charges from the industry.
- iii. **Reply to the show cause notice submitted by the Appellant dated 28.06.2023 vide Annexure L** – The Appellant submitted a detailed reply erroneously challenging the authority of the Respondent Board in the issuance of the impugned order, however, the Appellant failed to acknowledge that the closure order was issued on 04.08.2022 due to the non-compliances on the part of the industry and the revocation of closure order dated 27.09.2022 vide Annexure J1 and J2 was issued only after the industry had 'complied' with the non-compliances and the violations.



12. Perusal of the afore-said shows that sufficient opportunity has been given to the Appellant industry. The stance of the Appellant that there have been no violations from the industry's end is outright false and misleading. It is relevant to state that in terms of the inspection conducted by the Respondent Board dated 20.04.2022, the following non-compliances were recorded :

- i. The CETP is having 2 no's of Sludge Drying Beds and both were empty which shows that ETP is not being operated scientifically and regularly.
- ii. The industry has not displayed flow chart showing different units of CETP provided.
- iii. The industry has not provided flow meter to raw sewage effluent collection tank.
- iv. The industry has not maintained log book regarding operation and maintenance of
- v. The industry is having 3 no's of ovens (LPG Fired) and 8 no's of blenders/mixer.
- vi. The industry is not having sufficient vacant land for utilization of treated trade effluent within the industry premises. However, the contact person informed that, the treated effluent is being disposed to M/s Charupriya Enterprises to utilize for agricultural purpose as per Consent order, but not furnished any records with respect to disposal of the same.
- vii. The industry has provided separate permanent pipeline from CETP to front side of the compound wall and is connected with hose pipe, industry is having habit of discharging the effluent to storm water drain regularly.
- viii. The house keeping in the industry premises was very poor and foul smell was observed in the CETP area.
- ix. The previous sample of combined treated effluent was not confirmed to the standards stipulated by the Board.



13. A careful examination of the inspection observations indicates that the Appellant's industry had been operating in violation of the consent application, leading to the issuance of a closure order. Mere compliance by the Appellant's industry and the subsequent revocation of the closure order does not absolve the environmental damage caused during the period of non-compliance.
14. Furthermore, the orders passed by Hon'ble NGT in OA No. 324/2021 acts as a binding order upon all Pollution Control Boards including Respondent KSPCB to impose interim environmental compensation. The rationale behind imposing environmental compensation on the Polluters is that the law violating he provisions of law needs to be punished. The main aim should not only be development but there must be punishment and recovery for restoration. Keeping this in mind the Hon'ble National Green Tribunal decided to impose the environmental compensation on the Polluters.
15. Section 33 of the Water Act grants broad powers to the Central and State Boards to lay down standards for effluents and prescribe consent conditions for the discharge of pollutants. This includes the power to impose fees or charges for consent conditions. While environmental compensation may not be explicitly mentioned, the expansive language of Section 33 allows for the imposition of charges deemed necessary for enforcing the provisions of the Act.
16. It is significant to state that reversing the imbalance caused to the ecology is part and parcel of the industrial process. Thus, the financial responsibility of taking prevention and controlling measures for the pollution caused should rest upon the industry which caused pollution. The principle of polluter pays has time and again been also upheld by the Hon'ble Apex Court and High Court



in a plethora of judgements such as *Indian Council for Environment Legal v Union of India, 1996 SCC (3) 212, M.C Mehta v Kamal Nath (2000) 6 SCC 213 etc.*

17. In light of the aforesaid, it is relevant to state that the impugned environmental compensation levied by the Respondent Board upon the Appellant industry amounting to Rs 30,09,375/- vide Annexure N is valid and legal.

18. The present appeal is filed by the Appellant only to escape from its liability by misleading this Hon'ble Court and hence, requires to be dismissed for not being maintainable either in law or in facts.



**Date: 27.02.2024**

**Advocate for Respondents**

**Place: Bangalore**

**A. Mahesh Chowdhary**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN BENCH, CHENNAI**

**APPEAL No. 43/2023**

**Between**

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...Appellant

**And**

Karnataka State Pollution Control Board & Ors

...Respondents

**VERIFYING AFFIDAVIT**

I, Narayanaswamy, S. T. Aged 58 years, S/o Thope Gowda, Regional Environmental Officer, Anekal Region, the authorized representative of Respondents in the instant appeal do hereby solemnly affirm and state on oath as follows:

1. I am the authorized representative of Respondent Board in the instant appeal. I know the facts of the case and hence swear to this affidavit.
2. I submit that the averments made in para-No. 1 to 18 of appeal are true and correct to the best of my knowledge, information and belief.

I swear that the contents made out in the above paragraphs 1 to 3 are true and correct to the best of my knowledge, information, and belief.

Identified by

Advocate.

Place:

**BANGALORE**

Date:

**23 FEB 2024**



**DEPONENT**

**SWORN TO BEFORE ME**

ಬರಿಸಿದ ಅಧಿಕಾರಿ  
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ  
ಪ್ರಾದೇಶಿಕ ಕಛೇರಿ, ಅನೇಕಲ್

Sworn /Solemnly affirmed and signed before  
on this 23 day of 2 2024 at Bengaluru  
No. of Corrections W N.R.No. 818 /20 24

**VEENA. K, Advocate & Notary, Bengaluru**

**[Objections] Appeal No 43 of 2023 between Southern Bakeries and Karnataka State Pollution Control Board & Ors**

**ME** Me <highcourt@precinctlegal.com>  
Tue, 27 Feb 2024 7:03:26 PM +0530 •  
To "ajay" <ajay@pragatilaw.in>  
Cc "Mahesh Chowdhary" <amc@precinctlegal.com>, "Krishika Vaishnav" <krishika@precinctlegal.com>

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Sir,

Please find the enclosed copy of the objections filed by the Karnataka State Pollution Control Board in the aforesaid matter.

Rashi Singh  
Associate

**PRECINCT  
LEGAL**

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