

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI

IN

APPEAL NO. 64 OF 2024

(Under S. 16 of the National Green Tribunal Act, 2010)

IN THE MATTER OF

Neev Trust,
Sy. No. 16, Yemalur
Kempapura Main Road
Yemalur, Bangalore
Karnataka - 560037
Represented by Mr. Abhishek
Chaturvedi,
Trustee

...Applicant/Appellant

Versus

Karnataka State Pollution Control
Board
Bangalore – South
Through the Office of the Senior
Environmental Officer,
“NISARGA BHAVAN”, 3rd
Floor,
Thimmaiah Road, 7th ‘D’ Cross,
Shivanagar, Bangalore – 560010

...Respondent/Respondent

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Place: Bengaluru

Date: 29.06.2026



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BEFORE THE NATIONAL GREEN TRIBUNAL**SOUTHERN ZONE BENCH AT CHENNAI****APPEAL NO.64 OF 2024**

(Under S. 16 of the National Green Tribunal Act, 2010)

IN THE MATTER OF

Neev Trust

...Appellant

Versus

Karnataka State Pollution Control Board

...Respondent

**MEORANDUM OF CITATIONS ON BEHALF OF THE
APPELLANT**

The Counsel for the Appellant seeks to rely on the following judgements:

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1.	<i>Surjeet Hyundai (Eshan Auto Corp India LLP) v. Member Secretary Madhya Pradesh Pollution control Board Office and Another,</i> Appeal No.09/2025 (CZ) and Appeal No.09/2025 (CZ); 2026 SCC OnLine NGT 40 <i>Paragraph No. 21 to 34</i>	3-19
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Place: Bengaluru

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2026 SCC OnLine NGT 40

In the National Green Tribunal[±]

(BEFORE SHEO KUMAR SINGH, MEMBER (JUDICIAL) AND SUDHIR KUMAR
CHATURVEDI, EXPERT MEMBER)

Appeal No. 09/2025 (CZ)

Surjeet Hyundai, (Auto Pvt. Ltd.) Through its
Authorized Person Shri Sunil Sachdeva Office

And

Appeal No. 10/2025 (CZ)

Surjeet Hyundai (Eshan Auto Corp India LLP)
Through its Authorized Person Shri Sunil
Sachdeva Office ... Appellant(s);

Versus

Member Secretary Madhya Pradesh Pollution control
Board Office and Another ... Respondents.

Appeal No. 09/2025 (CZ) With Appeal No. 10/2025 (CZ)

Decided on January 8, 2026, [Date of completion of hearing and
reserving of order: 11.11.2025]

Advocates who appeared in this case :

Mr. Sidharth Prasad Nandekar, Adv., Mr. Kamal Nayan Dwivedi, Adv.,
Mr. Jatin Singh, Adv., Mr. Ayush Sen, Adv. Counsels for Appellant(s);
Ms. Parul Bhadoria, Adv. Counsels for Respondent(s).

JUDGMENT

1. Both the appeals have been filed by the appellant, M/s. Surjeet Hyundai Auto Private Limited, under Section 16 of the National Green Tribunal Act, 2010, challenging the order issued by the Madhya Pradesh Pollution Control Board, whereby and whereunder, after issue of show-cause notice, an environmental compensation of the damage has been imposed with direction to deposit in the account of the State Pollution Control Board. Aggrieved by the order, the appellant has filed this appeal.

2. The appellant, M/s Surjeet Hyundai (Eshan Auto Corp India LLP), is engaged in the business of sales and after-sales servicing of Hyundai vehicles at its authorised dealership situated in Bhopal, Madhya Pradesh. The Respondent, Madhya Pradesh Pollution Control Board (MPPCB), issued a Closure Notice dated 15.05.2023 alleging non-compliance with consent conditions under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974. Thereafter, without

affording reasonable time or hearing, a Closure Direction dated 26.06.2023 was issued to the unit. It is pertinent to note that on 28.07.2023, the Madhya Pradesh Electricity Board (MPEB) disconnected the power supply to the unit, further crippling its operations.

3. In compliance with the directions given by the Respondent, the Appellant submitted detailed replies and para-wise compliance reports to the office of the Respondent on 05.07.2023 and 21.07.2023, highlighting its adherence to environmental norms. Respondent, vide letter dated 20.05.2025, gave the Appellant an opportunity to appear for a hearing on 23.05.2025.

4. The Appellant appeared as directed and submitted a detailed reply on the same day. On the Appellant's request, the Respondent granted an additional seven days to submit further clarifications. Accordingly, the Appellant filed an additional reply on 02.06.2025. However, the Respondent did not consider the submissions made by the Appellant and arbitrarily imposed a penalty of Rs. 11,71,875/-, without proper evaluation of the reply.

5. During the course of the hearing before the Committee constituted by the Respondent for determination of Environmental Compensation, the Appellant again resubmitted compliance statements. Subsequently, vide letter dated 30.05.2025, the Appellant informed the Respondent that vehicle washing services were outsourced to a nearby service station, Balaji Service Station. It is pertinent to note that it was clarified that only 15-20 warranty-period vehicles were washed at the said location. It was further submitted that sales and other non-washing service activities remained operational during the closure period, which did not violate any consent condition.

6. It is further argued that there are gross variations and mandatory procedures prescribed under Section 21 of the Water (Prevention and Control of Pollution) Act, 1974 and the Section 21 of the said act has not been complied with and there was no sampling process. It is further argued that the outsourced washing activity was carried out by SNR Kia Workshop, located at J.K. Road, Bhopal, which is independently owned and operated by Shri Ramesh Nainwani, one of the Directors. He is prepared to furnish a written undertaking affirming that only warranty vehicles of the Appellant were washed at his facility during the said period.

7. It is further argued that the number of violation of days as determined by the respondent State Pollution Control Board are disputed and not factual. In reply to the above contention, learned counsel for the State Pollution Control Board, Ms. Parul Bhadoria has submitted that on 15.05.2023, a team of officers from MP PCB Regional Office Bhopal had inspected the premises of the appellant and it was found that the effluent treatment plant was not working and the

untreated water was found discharged outside the premises. Accordingly, the appellant was served with the notice dated 15.05.2023 under Section 33A of the Water (Prevention and Control of Pollution Act), 1974 and was directed to close its operation with immediate effect. The said notice was issued on the violation of environmental regulations pertaining to operation of a service station. The closure notice was issued by the Regional Officer, MPPCB, Bhopal to the appellant vide dated 15.05.2023 for noncompliance of consent conditions.

8. That despite issuance of the above notice the appellant did not complied with the directions issued by the Board. Therefore, the appellant was issued closure direction under Section 33A of the Water (Prevention and Control of Pollution Act), 1974 on 26.06.2023. Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited (MPMKVVL) had disconnected the power supply of the unit on dated 21.07.2023 and in formed Reginal office, MPPCB Bhopal vide letter dated 21.07.2023 regarding disconnection of the electricity.

9. Since the appellant had operated its unit even after issuance of the closure notice, the regional office, MPPCB, Bhopal vide dated 22.08.2024 submitted the proposal of imposition of environmental compensation of Rs. 11,71,875/- (Eleven Lacs Seventy One Thousand Eight Hundred Seventy Five Only) as per CPCB guidelines to head office of MPPCB. This EC was imposed for following reasons:

- i. Non-compliance of directions issued by the Board.
- ii. Operation of unit without proper compliance of consent condition being violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974.

10. An opportunity of hearing was given to the Appellant vide letter dated 20.05.2025 to appear before the committee constituted for the imposition of environmental compensation vide order no 1743 dated 23.05.2025. In the response, Appellant submitted that the service station was closed immediately in compliance of the closure direction of MPPCB and submitted that the vehicles were sent to outsource service station and their consent status under Water (Prevention and Control of Pollution) Act, 1974.

11. The committee had examined the reply submitted by the Appellant and the proposal of Regional Officer, MPPCB Bhopal. After, considering all the documents and replies, the Committee had observed that appellant had operated the unit even after the issuance of closure notice and accordingly Environment Compensation is imposed as per CPCB guidelines and recommended the imposition of environmental compensation of Rs. 11,71,875/- (Eleven Lacs Seventy One Thousand Eight Hundred Seventy Five Only).

12. It is further argued that the replies submitted by the appellant were not found to be satisfactory and therefore, the directions very issued by the board. In reply to the submission of the appellant that the opportunity of hearing was not provided, the Learned counsel for the respondent has contended that the committee had examined the replies submitted by the appellant and the proposal of regional officer, MP PCB, Bhopal.

13. After, considering all the documents and replies, the Committee had observed that appellant had operated the unit even after the issuance of closure notice and accordingly Environment Compensation is imposed as per CPCB guidelines and recommended the imposition of environmental compensation. The relevant minutes of the meeting of the committee are placed at page 26 of the appeal memo. Appellant had appeared before the Environment Compensation Committee with their reply on 23.05.2025. During presenting their case the appellant had requested additional time of one week to submit additional documents, which was granted by the committee, however they failed to submit these documents within the time granted.

14. It is further argued that the procedure prescribed by the CPCB has been complied and followed while providing opportunity of hearing to the appellant and imposing environmental damage. In both the appeals, order dated 03.06.2025, have been challenged by the appellant. By filing the rejoinder, the appellant has contended that the Madhya Pradesh Pollution Control Board has not acted fairly and in a transparent manner and not followed the procedure. In reply to the above contention learned counsel for the State PCB has submitted that nothing has been shown by the appellant as to where any procedure had not been followed by the respondent or what is unfairness on the part of the respondent.

15. The Learned counsel for the appellant has also challenged the powers of the board under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and section 31 of the Air (Prevention and Control of Pollution) Act, 1981 imposing the compensatory damage and to take action.

16. Under the Water Act and the Air Act, the State Boards have a broad statutory mandate to prevent, control and abate water pollution and air pollution. Under Section 17 of the Water Act, the State Boards are to shoulder enormous responsibilities and their functions are reproduced herein for ready reference—

“Section 17. Functions of State Board — (1) Subject to the provisions of this Act, the functions of a State Board shall be—

(a) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

- (b) to advise the State Government on any matter concerning the prevention, control or abatement of water pollution;*
- (c) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;*
- (d) to encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;*
- (e) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto;*
- (f) to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;*
- (g) to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;*
- (h) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;*
- (i) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;*
- (j) to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of scant stream flows that do not provide for major part of the year the minimum degree of dilution;*
- (k) to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents;*
- (l) to make, vary or revoke any order—*
 - (i) for the prevention, control or abatement of discharges of waste into streams or wells;*
 - (ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify, alter or*

extend any such existing system or adopt such remedial measures as are necessary to prevent, control or abate water pollution;

- (m) to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;*
- (n) to advise the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;*
- (o) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government.*

(2) The Board may establish or recognize a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents."

17. Section 33A of the Water Act provides:

"Section 33A. *Power to give directions.—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.*

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

- (a) the closure, prohibition or regulation of any industry, operation or process; or*
- (b) the stoppage or regulation of supply of electricity, water or any other service."*

18. Learned counsel for the State PCB has argued that the legislative intention of granting the powers of the board was intended to effectively prevent water pollution and the penal provisions of the act are proposed to be made stricter and bring them at par with the punishments prescribed in the Air (Prevention and Control of Pollution) Act, 1981, as amended.

19. There is a distinction between an action for environmental damages for restitution or remediation and imposition of penalties or fines levied at the culmination of a punitive action. The Hon'ble Supreme Court in *M.C. Mehta*, (2000) 6 SCC 213, while referring to the provisions of the Water Act, Air Act and the Environment Protection Act

observed—

"17. All the three Acts, referred to above, also contemplate the taking of the cognizance of the offences by the court. Thus, a person guilty of contravention of provisions of any of the three Acts which constitutes an offence has to be prosecuted for such offence and in case the offence is found proved then alone can he be punished with imprisonment and fine or both. The sine qua non for punishment of imprisonment and fine is a fair trial in a competent court. The punishment of imprisonment or fine can be imposed only after the person is found guilty."

"24. Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution has to pay damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender...."

20. In this context, it is important to turn to one of the key principles of Indian environmental law - the Polluter Pays principle. This principle has been a part of Indian jurisprudence since 1996. In *Indian Council for Enviro-Legal Action v. Union of India*¹, this Court held that according to the Polluter Pays principle the responsibility for repairing the damage is that of the offending industry. The Court further held that the powers of the Central Government to issue directions under Section 5 read with Section 3 of the Environment Protection Act include the power to impose costs for remedial measures—

"60. ... Section 3 of the Environment (Protection) Act, 1986 expressly empowers the Central Government (or its delegate, as the case may be) to "take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment...". Section 5 clothes the Central Government (or its delegate) with the power to issue directions for achieving the objects of the Act. Read with the wide definition of 'environment' in Section 2(a), Sections 3 and 5 clothe the Central Government with all such powers as are "necessary or expedient for the purpose of protecting and improving the quality of the environment". The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose. In the present case, the said powers will include giving directions for the removal of sludge, for undertaking remedial measures and also the power to impose the cost of remedial measures on the offending industry and utilise the amount so recovered for carrying out remedial measures. This Court can certainly give directions to the Central Government/its delegate to take all such measures, if in a given case this Court finds that such directions are warranted. ...

67. The question of liability of the respondents to defray the costs of remedial measures can also be looked into from another angle, which has now come to be accepted universally as a sound principle, viz., the "Polluter Pays" principle. ...Thus, according to this principle, the responsibility for repairing the damage is that of the offending industry. Sections 3 and 5 empower the Central Government to give directions and take measures for giving effect to this principle. In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of the Environment (Protection) Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, RPCB or such other agency or authority, as they think fit."

(emphasis added)

21. More recently, in *T.N. Godavarman Thirumulpad, In Re v. Union of India*², this Court while considering the issue of illegal construction in the Corbett Tiger Reserve drew the distinction between action against persons violating the law and measures for restoration of the environmental damage. The Court held—

"173. ... However, the principle of restoration of damaged ecosystem would require the States to promote the recovery of threatened species. We are of the considered view that the States would be required to take steps for the identification and effective implementation of active restoration measures that are localised to the particular ecosystem that was damaged. The focus has to be on restoration of the ecosystem as close and similar as possible to the specific one that was damaged.

175. We find that, bringing the culprits to face the proceedings is a different matter and restoration of the damage already done is a different matter. We are of the considered view that the State cannot run away from its responsibilities to restore the damage done to the forest. The State, apart from preventing such acts in the future, should take immediate steps for restoration of the damage already done; undertake an exercise for determining the valuation of the damage done and recover it from the persons found responsible for causing such a damage."

22. Section 20 of the Tribunal Acts provides that the Tribunal shall while passing any order or decision or award apply the principles of sustainable development, the precautionary principle, and the polluter to pay principle. The powers of the board under section 33A and 31A of the Water (Prevention and Control of Pollution) Act, 1974 and Air

(Prevention and Control of Pollution) Act, 1981 are identical to that of Section 5 of the Environmental (Protection) Act, 1986. Under Section 5, the Central Government or its delegate has the power to issue directions to the polluting industry to pay certain amounts and utilize this said fund for carrying out remedial measures. The boards are empowered to take similar actions under section 33A and 31A of the Act. Hon'ble the Supreme Court of India while deciding the matter in Civil Appeal No. 757-760/2013 *DPCC v. Lodhi Property Company Ltd.* vide order dated 04.08.2025 in para 28 has directed that "we are of the opinion that these regulators in the size of these powers can impose and collect as restitutionary or compensatory damage fixed sum of monies or require furnishing bank guarantee as an ex-ante measure towards potential or actual environmental damage.

23. There is no doubt that Section 33A of the Water Act and Section 31A of the Air Act give the State Boards powers to issue necessary directions for environmental restoration, remediation and compensation and for the payment of costs for the same. The National Green Tribunal's judgment in *Swastik Ispat* correctly identified the Boards powers to issue directions for payment of environmental damages under Section 33A of the Water Act and the Section 31A of the Air Act. A restrictive interpretation which fails to differentiate between environmental damages and punitive action significantly encumbers the Boards ability to discharge its duties. "There is no conflict between the powers of the state board to direct payment of environmental damage under section 33A and 31A of the Water and Air Act and the powers of the adjudicating officer to impose penalties under chapter 7 of the Water Act and chapter 6 of the Air Act."

24. Given their broad statutory mandate and the significant duty towards public health and environmental protection the Boards must have the power and distinction to decide the appropriate action against a polluting entity. It is essential that the Boards function effectively and efficiently by adopting such measures as is necessary in a given situation. The Boards can decide whether a polluting entity needs to be punished by imposition of penalty or if the situation demands immediate restoration of the environmental damage by the polluter or both. Hon'ble the Supreme Court of India observed "while we hold that the Boards have the power to direct the payment of environmental damages, we make it clear that this power must always be guided by two overarching principles. First, that the power cannot be exercised in an arbitrary manner; and second, the process of exercising this power must be infused with transparency."

25. In the direction clause 39(B), Hon'ble the court has directed that, the pollution control board can impose and collect as restitutionary and compensatory damage fixed sums of monies or

require furnishing bank guarantee as an *ex ante* measures towards potential environmental damage in the size of the powers under section 33A and 31A of the Water and Air Acts. The precaution which is required to be taken by the state board or state PCB are that the showcause notice explaining the reasons must be given to the defaulter unit and the unit must be given an opportunity of hearing on the matter.

26. In the memo of the appeal, the appellant has admitted that in compliance of the direction given by the respondent, the detailed reply and para-wise compliances reports were submitted before the respondent and appellant also appeared before the authorities concerned and was given an opportunity of hearing. The only contention as raised by the learned counsel for the appellant are that another washing activity was carried out by means of outsourcing and thus, there was no use of water and in reply thereof, learned counsel for the State PCB has submitted that the appellant was asked to submit the details of the outsourced agency which was not furnished properly by the appellant and nothing was shown in record as to how much number of vehicles on which days was sent to the outsourcing agency for servicing and thus, the explanation submitted by the appellant was not found sufficient/satisfactory and thus a proper and appropriate order was passed by the authority concerned.

27. In *Chairman, Board of Mining Examination and Chief Inspector of Mines v. Ramjee*, (1977) 2 SCC 256 : AIR 1977 SC 965 the Court has observed that natural justice is not an unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference of the administrative realities and other factors of a given case, can be exasperating. The Courts cannot look at law in the abstract or natural justice as a mere artefact. Nor can they fit into a rigid mould the concept of reasonable opportunity. If the totality of circumstances satisfies the Court that the party visited with adverse order has not suffered from denial of reasonable opportunity, the Court will decline to be punctilious or fanatical as if the rules of natural justice were sacred scriptures.

28. In *Union of India v. Tulsiram Patel*, (1985) 3 SCC 398 : AIR 1985 SC 1416 the Hon'ble Supreme Court held:—

"Though the two rules of natural justice, namely, nemo judex in causa sua and audi alteram partem, have now a definite meaning and connotation in law and their content and implications are well understood and firmly established, they are nonetheless not

statutory rules. Each of these rules yields to and changes with the exigencies of different situations. They do not apply in the same manner to situations which are not alike. These rules are not cast in a rigid mould nor can they be put in a legal straitjacket. They are not immutable but flexible."

29. It is equally well settled that the principles of natural justice must not be stretched too far and in this connection, reference may be made to the decisions of the Supreme Court in *Sohan Lal Gupta v. Asha Devi Gupta*, (2003) 7 SCC 492; *Mardia Chemicals Ltd. v. Union of India*, (2004) 4 SCC 311 : AIR 2004 SC 2371 and *Canara Bank v. Debasis Das*, (2003) 4 SCC 557 : AIR 2003 SC 2041.

30. It is further to be noted that the Court is to proceed as to whether non observance of any of the principles enshrined in statutory rules or principles of natural justice have resulted in deflecting the course of justice. Even, if in a given case, like the fact of the present case there may be some deviation but it has not resulted in grave injustice or has not prejudiced the cause of the petitioner because the decision taken by the respondent was based on the scientific report. This Court does not function as a Court of appeal on the finding of scientific report submitted by the experts. On examining the facts and circumstances of the present case, it cannot be held that the process adopted or decision made by the respondents is in anyway arbitrary or irrational or in any way in violation of the principles of natural justice. The conclusion is that the petition is devoid of merit and deserves to be dismissed.

31. Natural justice is at least as old as the first man created on earth - the biblical 'Adam'. J.R. Lucas in his book 'On Justice' states (at page 86):

"Hence, when we are judging deeds, and may find that a man did wrong, there is a requirement of logic that we should allow the putative agent to correct misinterpretations or disavow the intention imputed to him or otherwise disown the action. God needed to ask Adam 'Hast thou eaten of the tree whereof I commanded thee that thou shouldest not eat?' Because it was essential that Adam should not be blamed or punished unless he had done exactly that deed. If the serpent had planted the evidence, or if he had beguiled Adam into eating it under the misapprehension that it came from another, non-forbidden tree, then Adam had not sinned and should not have been expelled from Eden. Only if the accused admits the charge, or, faced with the accusation, cannot explain his behaviour convincingly in any other way, are we logically entitled to conclude that he did indeed do it."

32. In some of the early judgments of this Court, the non-observance of natural justice was said to be prejudice in itself to the

person affected, and proof of prejudice, independent of proof of denial of natural justice, was held to be unnecessary. The only exception to this rule is where, on "admitted or indisputable" facts only one conclusion is possible, and under the law only one penalty is permissible. In such cases, a Court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice, but because Courts do not issue writs which are "futile" - see *S.L. Kapoor v. Jagmohan*, (1980) 4 SCC 379 at paragraph 24. In *P.D. Agrawal v. State Bank of India*, (2006) 8 SCC 776, however, the Court observed that this statement of the law has undergone a "sea change", as follows:

"39. Decision of this Court in S.L. Kapoor v. Jagmohan [(1980) 4 SCC 379] whereupon Mr. Rao placed strong reliance to contend that nonobservance of principle of natural justice itself causes prejudice or the same should not be read "as it causes difficulty of prejudice", cannot be said to be applicable in the instant case. The principles of natural justice, as noticed hereinbefore, have undergone a sea change. In view of the decisions of this Court in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364] and Rajendra Singh v. State of M.P. [(1996) 5 SCC 460] the principle of law is that some real prejudice must have been caused to the complainant. The Court has shifted from its earlier concept that even a small violation shall result in the order being rendered a nullity. To the principle/doctrine of audi alteram partem, a clear distinction has been laid down between the cases where there was no hearing at all and the cases where there was mere technical infringement of the principle. The Court applies the principles of natural justice having regard to the fact situation obtaining in each case. It is not applied in a vacuum without reference to the relevant facts and circumstances of the case. It is no unruly horse. It cannot be put in a straitjacket formula."

(emphasis supplied)

33. Equally, the prejudice that is caused, apart from natural justice itself being denied, cannot be said to be present in a case in which there are admitted facts. Thus, in *K.L. Tripathi v. State Bank of India*, (1984) 1 SCC 43, the Court held:

"29. We are of the opinion that Mr. Garg is right that the rules of natural justice as we have set out hereinbefore implied an opportunity to the delinquent officer to give evidence in respect of the charges or to deny the charges against him. Secondly, he submitted that even if the rules had no statutory force and even if the party had bound himself by the contract, as he had accepted the Staff Rule, there cannot be any contract with a Statutory Corporation which is violative of the principles of natural justice in matters of

*domestic enquiry involving termination of service of an employee. We are in agreement with the basic submission of Mr. Garg in this respect, but we find that the relevant rules which we have set out hereinbefore have been complied with even if the rules are read that requirements of natural justice were implied in the said rules or even if such basic principles of natural justice were implied, there has been no violation of the principles of natural justice in respect of the order passed in this case. In respect of an order involving adverse or penal consequences against an officer or an employee of Statutory Corporations like the State Bank of India, there must be an investigation into the charges consistent with the requirements of the situation in accordance with the principles of natural justice as far as these were applicable to a particular situation. So whether a particular principle of natural justice has been violated or not has to be judged in the background of the nature of charges, the nature of the investigation conducted in the background of any statutory or relevant rules governing such enquiries. Here the infraction of the natural justice complained of was that he was not given an opportunity to rebut the materials gathered in his absence. As has been observed in *On Justice* by J.R. Lucas, the principles of natural justice basically, if we may say so, emanate from the actual phrase "audi alteram partem" which was first formulated by St. Augustine (*De Duabus Animabus*, XIV, 22 J.P. Migne, PL. 42, 110).*

xxx.....xxx.....xxx

32. The basic concept is fair play in action administrative, judicial or quasi-judicial. The concept of fair play in action must depend upon the particular *lis*, if there be any, between the parties. If the credibility of a person who has testified or given some information is in doubt, or if the version or the statement of the person who has testified, is, in dispute, right of cross-examination must inevitably form part of fair play in action but where there is no *lis* regarding the facts but certain explanation of the circumstances there is no requirement of cross-examination to be fulfilled to justify fair play in action. When on the question of facts there was no dispute, no real prejudice has been caused to a party aggrieved by an order, by absence of any formal opportunity of cross-examination per se does not invalidate or vitiate the decision arrived at fairly. This is more so when the party against whom an order has been passed does not dispute the facts and does not demand to test the veracity of the version or the credibility of the statement.

33. The party who does not want to controvert the veracity of the evidence from record or testimony gathered behind his back cannot expect to succeed in any subsequent demand that there was no opportunity of cross-examination specially when it was not asked for

and there was no dispute about the veracity of the statements. Where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, absence of opportunity to cross examination does not create any prejudice in such cases."

(emphasis supplied)

34. In *State Bank of Patiala v. S.K. Sharma*, (1996) 3 SCC 364, a Division Bench of this Court distinguished between "adequate opportunity" and "no opportunity at all", and held that the "prejudice" exception operates more especially in the latter case. This judgment also speaks of procedural and substantive provisions of law which embody the principles of natural justice which, when infringed, must lead to prejudice being caused to the litigant in order to afford him relief, as follows:

"32. Now, coming back to the illustration given by us in the preceding para, would setting aside the punishment and the entire enquiry on the ground of aforesaid violation of sub-clause (iii) be in the interests of justice or would it be its negation? In our respectful opinion, it would be the latter. Justice means justice between both the parties. The interests of justice equally demand that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice. Principles of natural justice are but the means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end. That would be a counterproductive exercise.

33. We may summarise the principles emerging from the above discussion. (These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee):

- (1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations/statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature or (b) whether it is procedural in character.*
- (2) A substantive provision has normally to be complied with as explained hereinbefore and the theory of substantial compliance or the test of prejudice would not be applicable in such a case.*
- (3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed.*

Except cases falling under — “no notice”, “no opportunity” and “no hearing” categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer/employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and/or the order of punishment. If no prejudice is established to have resulted therefrom, it is obvious, no interference is called for. In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The Court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is a provision expressly providing that after the evidence of the employer/government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer/employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeat, the test is one of prejudice, i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if one is so inclined. The principle stated under (4) hereinbelow is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the delinquent officer has waived the said requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of the said violation. If, on the other hand, it is found that the delinquent officer/employee has not waived it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions (include the setting

aside of the order of punishment), keeping in mind the approach adopted by the Constitution Bench in B. Karunakar [(1993) 4 SCC 727]. The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

- (5) *Where the enquiry is not governed by any rules/regulations/statutory provisions and the only obligation is to observe the principles of natural justice — or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order/action — the Court or the Tribunal should make a distinction between a total violation of natural justice (rule of audi alteram partem) and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be made between “no opportunity” and no adequate opportunity, i.e., between “no notice”/“no hearing” and “no fair hearing”. (a) In the case of former, the order passed would undoubtedly be invalid (one may call it ‘void’ or a nullity if one chooses to). In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule (audi alteram partem). (b) But in the latter case, the effect of violation (of a facet of the rule of audi alteram partem) has to be examined from the standpoint of prejudice; in other words, what the Court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer/employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. [It is made clear that this principle (No. 5) does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.]*
- (6) *While applying the rule of audi alteram partem (the primary principle of natural justice) the Court/Tribunal/Authority must always bear in mind the ultimate and overriding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.*
- (7) *There may be situations where the interests of State or public interest may call for a curtailing of the rule of audi alteram partem. In such situations, the Court may have to balance public/State interest with the requirement of natural justice and arrive at an appropriate decision.”*

35. After the perusal of the order impugned, nothing has been shown by the Appellant that if there is any failure of the justice or any prejudice has been caused by the calculation as done by expert committee/State Pollution Control Board. There is no breach of natural

justice and opportunity of hearing was provided to the Appellant and the calculation as done by the expert committee is in accordance with the number of violation of days which is calculated from the day of violation till the continuation of the violation and nothing has been shown by the Appellant of any other calculation of days method.

36. In view of the above discussion, the order impugned passed by the SPCB calculating the environmental compensation is in accordance with the guidelines issued by the CPCB, and is in accordance with the rules and there is no irregularity or illegality.

37. Thus, the **Appeal Nos. 09/2025(CZ) & 10/2025(CZ)** have no merit and deserves to be dismissed and accordingly **dismissed**.

38. State Pollution Control Board is directed that the amount of environmental damage so realised must be deposited in the Environmental Protection Fund set up under Section 16 of the Environmental Protection Act and to be utilized for the promotion of awareness, education and research for the protection of the environment, for achieving the objects and for purpose of the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974. A copy of the order be also kept on the connected file.

[†] Bhopal Bench

¹ (1996) 3 SCC 212

² (2025) 2 SCC 641

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ITEM NO.7

COURT NO.2 SECTION XVII
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No(s). 21358/2026

[Arising out of impugned final judgment and order dated 08-01-2026 in AN No. 9/2025 passed by the National Green Tribunal, Central Zonal Bench, Bhopal]

M/S SURJEET HYUNDAI, (AUTO PVT. LTD.)

Petitioner(s)

VERSUS

THE MEMBER SECRETARY & ANR.

Respondent(s)

IA No. 162592/2026 - CONDONATION OF DELAY IN FILING

IA No. 162599/2026 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS, IA No. 162575/2026 - EXEMPTION FROM FILING O.T.

IA No. 162567/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 162570/2026 - STAY APPLICATION

Date : 23-06-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

HON'BLE MR. JUSTICE JOYMALYA BAGCHI

(PARTIAL COURT WORKING DAYS BENCH)

For Petitioner(s) :Mr. Harpreet Singh Gupta, AOR
Mr. Pratipal Singh Gupta, Adv.
Mr. Srajan Jain, Adv.
Ms. Nancy Chaturvedi, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Issue notice to the respondents.

Learned counsel for the appellant is also permitted
to serve the standing counsel for the
respondent(s)/State.

There shall be interim stay of the impugned
direction, until further orders.

Tag with Civil Appeal Diary No.21367/2026.

Signature Not Verified
Digitally signed by
NEETU SACHDEVA
Date: 2026.06.23
16:28:05 IST
Reason: []

(NEETU SACHDEVA)
DOEPUTY REGISTRAR

(DIVYA BABBAR)
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No(s). 21367/2026

[Arising out of impugned final judgment and order dated 08-01-2026 in AN No. 10/2025 passed by the National Green Tribunal, Central Zonal Bench, Bhopal]

M/S SURJEET HYUNDAI (ESHN AUTO CORP INDIA LLP) Appellant(s)

VERSUS

THE MEMBER SECRETARY MADHYA PRADESH
POLLUTION CONTROL BOARD & ANR. Respondent(s)

(FOR ADMISSION and I.R.

IA No. 140616/2026 - CONDONATION OF DELAY IN FILING

IA No. 140615/2026 - EXEMPTION FROM FILING O.T.

IA No. 140613/2026 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 140614/2026 - STAY APPLICATION)

Date : 15-05-2026 This matter was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Harpreet Singh Gupta, AOR
Mr. Pratipal Singh Gupta, Adv.
Ms. Sarita Chaturvedi, Adv.
Mr. Srajan Jain, Adv.
Mr. Chinmay Singh Kulhara, Adv.
Ms. Bhumika Sharma, Adv.
Ms. Faiza Naved, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. Issue notice to the respondents.
3. Appellant's counsel is also permitted to serve the standing counsel for the respondent-State.
4. There shall be interim stay of the impugned direction until further orders.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)



SERVICE | Appeal No. 64/2024 - Neev Trust v. KSPCB | National Green Tribunal, Chennai Bench (SZ)

From Pranathi S <pranathi.s@keystone.law>

Date Mon 29-Jun-26 10:20

To rashi@precinctlegal.com <rashi@precinctlegal.com>

Cc Aditya Chatterjee <aditya.chatterjee@keystone.law>; Nikitha Surabhi <nikitha.surabhi@keystone.law>

 1 attachment (8 MB)

Appeal No.64 of 2024_Memo of Citations_29.06.2026.pdf;

Dear Ms. Rashmi,

We represent the Appellant, Neev Trust in the captioned matter. Please see attached the link containing the memo of citations which we will be filing before the Hon'ble National Green Tribunal, Chennai Bench (SZ). Kindly treat this email as service and acknowledge receipt.

Warm Regards,
Pranathi

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