

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 606 Of 2022

Public Action Committee & Ors.

...Applicants

Versus

State of Punjab & Others

...Respondents

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Dated: 18.1.24, New Delhi

Filed by:



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O.A. No. 606 Of 2022

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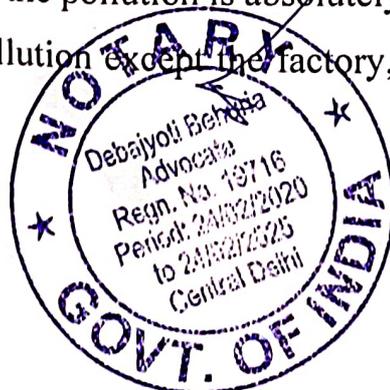
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Additional Affidavit of Applicants and R-8 dated 19.01.24
regarding why further sampling is unnecessary

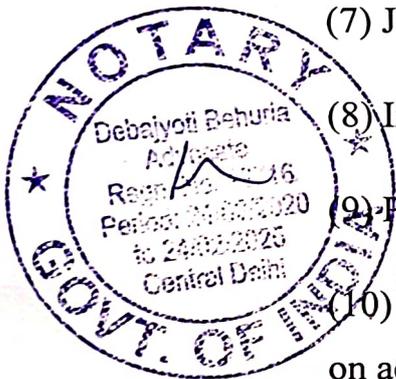
1. I, Fateh Singh, S/o Rajbir Singh, Male, aged 37 years, resident of village-Ratol Rohi, Tehsil-Zira, District- Ferozepur, Punjab presently at New Delhi, do hereby solemnly affirm and state as under:
2. Counsel for the Company has submitted that further sampling is necessary for the following reasons:
 - a) The PPCB has taken water samples on 19.7.22 and made a report giving the company a clean chit.
 - b) The report of the Committee headed by a retired judge dated 21.9.22 has also given the company a clean chit.
3. On the other hand, the Applicant and R-8 have produced 10 documents showing that the pollution is absolutely lethal and toxic, that there is no other source of pollution except the factory, that the pollution is continued for 10



years and many have died, the crops have been destroyed and animals have died. These documents are:

- (1) CPCB report dated 13.4.23 showing extensive pollution including toxic chemicals in the groundwater,
- (2) the CPCB Affidavit dated 23.11.23,
- (3) the CPCB Affidavit dated 8.1.24.
- (4) the Chief Secretary Committee Report dated 26.3.23 similarly showing toxic chemicals, the
- (5) PPCB criminal complaint before the Magistrate which agrees with the CPCB findings,
- (6) the order of the Appellate Authority under the Water Pollution Act, 1974,
- (7) Jamoori Adhikar Sabha Report dated 27.1.23,
- (8) India Narrative Report dated 18.12.22
- (9) Panchayat's resolutions dated 12.8.22 and others and
- (10) the video testimonies of Boota Singh and Rajveer Singh who died on account of pollution.

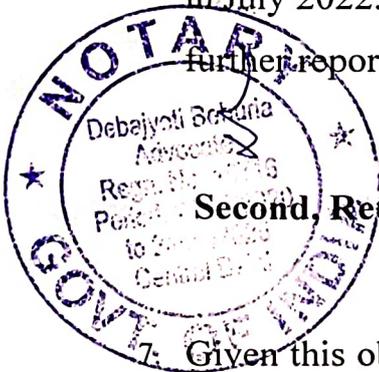
4. The 2 documents abovementioned referred to by the company are unreliable for several reasons and ought not to be relied upon by the Hon'ble NGT for the following reasons.



First, because of PPCB's History of Collusion

5. The Punjab Pollution Control Board (PPCB) was the agency entrusted with monitoring of this industry and it was their responsibility to keep a check on their pollution ever since this industry was established. Once the story of ground water pollution at Zira broke out in July 2022 in the media and there was a lot of resentment among people of the area. It became a vested interest of PPCB officials to ensure that no pollution by industry is reported to save their own skin. They gave a quick clean chit to the industry in their report after collecting samples on 19.07.2022 from three borewells inside the industry. They reported water samples from those three borewells as colorless and odourless and free from any pollutants in their report. That was their first report on this issue. For as long as the company has been in existence the PPCB has been giving the company a clean chit year after year despite the extreme suffering of the farmers. The collusion was obvious. In the circumstances it is not difficult to understand why the PPCB is trying to come to the rescue of the company even at this stage.

6. PPCB was the authority responsible for keeping a check on pollution by industry and they had also given a clean chit to the industry in their first report in July 2022. Therefore, it was a huge conflict of interest for them to give any further reports against the industry.

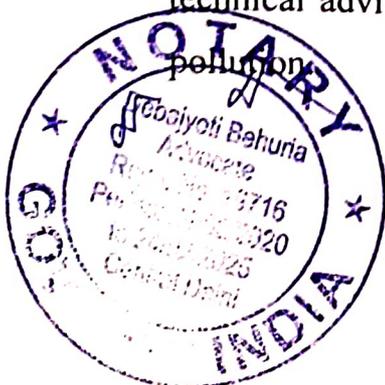


Second, Retired Judge Committee relied on PPCB: Fatal mistake

7. Given this obvious and huge conflict of interest of PPCB and its officials in protecting their own skin and given that they had already given one report in

industry's favour and given that PPCB does not have a good track record of catching polluters it was a huge mistake by the retired Judge Committee to rely on the same agency i.e. PPCB and its officials to again do the sampling and giving them responsibility of sending those samples to various labs for their report also.

8. Dr Babu Ram was PPCB member secretary and its technical head in 2016. He was instrumental in getting the Environment Impact Assessment clearance granted to this industry for the Ethanol plant in 2016. This EIA included a public hearing which was fraud on the local people as attendees were brought in buses from faraway places especially from another district of Faridkot and from the constituency of the then Shiromani Akali Dal MLA Mr Deep Malhotra who is also the (owner/main stake holder) of the industry under question i.e. Malbros International Private Limited. All this is a matter of record.
9. It is important to mention here that he is the same Dr Babu Ram who remained Member Secretary of PPCB from 2008 to 2018 well past his retirement age due to multiple extensions given by that very Shiromani Akali Dal Govt of that time which had Mr Deep Malhotra (Owner of Malbros) as a very influential MLA (2012-2017).
10. Dr Babu Ram's tenure came to end only when SAD was replaced by Congress Govt in 2017. He even joined a Paper Mill after his retirement as their technical advisor and did press conferences on their behalf to defend their



Third, People had no faith in PPCB

11. The people of Punjab had no faith in PPCB and their intention or ability to catch polluters. This was amply proven when Sanjha Morcha Zira vehemently opposed any involvement of PPCB or its present or retired officials for the investigation committees to be formed by Chief Secretary Punjab. They demanded that no involvement of PPCB or any of its present or past officials be there at all. The Chief Secretary agreed to this demand and only then the team of independent experts from Guru Nanak Dev University, IIT Ropar and Thapar University was formed to conduct an impartial investigation into the groundwater pollution. That committee found polluted water in the industry borewells containing heavy metals and toxic and carcinogenic phenolic compounds.

Why NGT should not start another fresh inquiry

12. In view of the 10 reports abovementioned all showing toxic chemicals and heavy metals particularly in two borewells within the factory premises where reverse boring was done where the pollutants were under pressure injected into the groundwater, no further committee should be appointed. Secondly, in view of the retired judge's committee relying on the very PPCB which was colluding with the company for sampling and testing, the retired judge's committee report should not be accepted. The applicants and R-8 suspect foul play in the conduct of the PPCB.

Company's stand: heavy metals comes from pesticides: untenable

13. By the order of the 3-judge bench of NGT dated 3.11.23 in OA 676 of 2023 the Hon'ble NGT directed CPCB to check if any pesticide has caused

groundwater pollution. In the CPCB report submitted to NGT it is concluded as under:

“12 pesticides monitored at 43 locations indicate that all these pesticides were Below Detection Limits (BDL) in the State.”

14. This affidavit be taken on record and the submissions have been adopted by the applicants as well.

Fsingh

Deponent

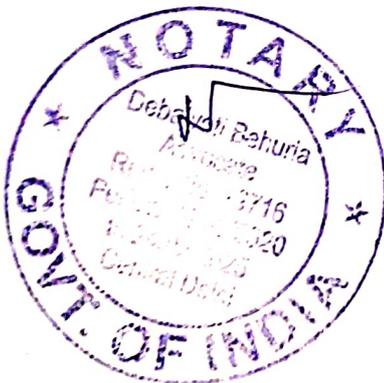
Verification 18 JAN 2024

Identified by:
Kaushik
21/8/24/19
I identified the deponent who has signed in my presence.

Verified at New Delhi on the 18th of January, 2024 that the contents of the affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

Fsingh

Deponent



CERTIFIED THAT THE DEPONENT
Sri/Smt/Ka... *Fatch Singh*
S/o, W/o, D/o... *Rajbir Singh*
R/o... *Kaushik*
Identified by Sri/Smt... *Kaushik*
has Solemnly affirmed before me at
New Delhi on... as Sl. No...
That the Contents of the affidavit which have
been read & explained to him are true and
Correct to this knowledge.
18 JAN 2024
Notary Public



3116

Additional affidavit dated 18.01.24 in O.A. 606 of 2022 on behalf of the Applicant and R-8

1 message

Deepak Singh <deepak.singh@hrln.org>

Thu, 18 Jan, 2024 at 11:16 pm

To: chairman.ptl.ppcb@punjab.gov.in, chairmanppcb@yahoo.co.in, seezobti@gmail.com, zldmalbros@oasisgrp.in, rdchandigarh.cpcb@gov.in, gurnamsingh.cpcb@nic.in, msppcb@punjab.gov.in, mattewarasutlejpac@gmail.com, ccb.cpcb@nic.in, narendersharma.cpcb@gov.in, msch.cpcb@nic.in, ppcbfdk@yahoo.com

Dear Sir/Madam,

Please find the Additional affidavit dated 18.01.24 in O.A. 606 of 2022 on behalf of the applicant and R-8 (Sanjha Morcha Zira) listed before the Hon'ble NGT, Principal Bench, Delhi. Please consider it as proof of advance service of the Additional Affidavit dated 18.01.24 on behalf of the applicant and R-8.

Thank you,

Regards,

(On behalf of Applicant and R-8)

Deepak Kumar Singh

Advocate

18.01.24