

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
APPEAL NO.26 OF 2022

IN THE MATTER OF :

Haryana State Pollution Control Board & Anr. ... Appellants

Versus

M/s Radhey Radhey MineralsRespondent

**ADDITIONAL DOCUMENTS ON BEHALF OF THE
RESPONDENT**

I N D E X

S. No.	Particulars	Page Nos.
1.	Copy of letter dated 7.12.2021 written by the respondent to HSPCB	1-2
3.	Copy of recommendation dated 22.12.2021 made by the Regional Officer, HSPCB	3-4
4.	Copy of order dated 2.9.2022 passed by this Hon'ble Tribunal in Appeal No.37/2022	5-9
5.	Proof of service	10



TARUN GUPTA
ADVOCATE FOR RESPONDENT
B-7/50, SAFDARJUNG ENCLAVE MAIN
NEW DELHI - 110 029

NEW DELHI
DATED : 13/9/2022

E-1440528

07/12/2021

Pl. examine as per rules

1

To

Chairperson Of HSPCB

Panchkula, Haryana

MS

7/12/2021

Sub: Regarding falling of air emission sample under the provisions of Air Act, 1981 of M/s Radhey Radhey Minerals, Vill Bayal, Tehsil- Nangal Choudhary, Distt- Mahendergarh.

CTE NO. 313118818MAHCTE4943802 - DATED 15.02.2018

CTO NO. 313118819MAHCTOA6364416 - DATED 15.04.2019

Ref. Closure Order Dated 02.12.2020

Respected Sir,

On the subject referred above, our mineral grinding unit Namely M/s Radhey Radhey Minerals was inspected by the team & Air emission sample was collected and above said sample parameters are exceeding the prescribed limits. In this regard we have submitted the following that:-

1. Our mineral grinding unit follows all environmental norms issued by the HSPCB.
2. At the the time of sampling a bag filter was not proper work i.e. leakage the bag filter, due to this parameters are exceeding the prescribed limit.
3. At that time we had rectified the leakage by changing the bag filter so that no emission can be produced.
4. Also we had installed a dust collector for collecting fumes and control Air Emission.
5. We had installed all required APCM as per mineral guidelines Dated 02.04.2012.

Further, submissions of air emissions depends on factors like direction of air, moisture in air and weather conditions.

On Dated 28.12.2020 we sent a letter to Regional Office [Dharuhera Region] for either resampling of our sample or permitting us to reopen till resampling. But there was no response from them till now.

Dear Sir, I had also submit appeal (Appeal No. 100) in appellate authority constituted under the air act, 1981(14 OF 1981), civil secretariat, Haryana, Chandigarh But there is No hearing till now.

We went to Regional office many times but they did not responded for reopening of my unit.

We had also deposited the fee for resampling at that time only. Detailed given below:

1. Performance security of Rs. 12500/- vide DD No. 508167 Dated 04.12.2020
2. Air sample testing fees of Rs. 1500/- vide DD No. 508166 Dated 04.12.2020

We established our unit in 2019 with the investment of Rs. 40 to 50 lakhs and it is a tiny unit. Our unit had been closed since last 10 months due to which we are suffering from heavy loss and mentally disturbed.

We truly believed that you will do justice with us.

Thanks

With Regards,

VIPUL SANGHI

From: Radhey Radhey Minerals

Vill: Bayal, Teh: Nangalchoudhary,

Disst: Mahendergarh, (Haryana)

Date 06.12.2021

MOBILE NO.7206370975

File No.HSPCB-230004/52/2021-Region Dharuhera-HSPCB

I/84022/2021



Haryana State Pollution Control Board

REGIONAL OFFICE, LALA NEMI CHAND SINGHAL ENCLAVE, SOHNA ROAD
NEAR PUNJAB NATIONAL BANK, DHARUHERA

Tele Fax: 01274-244241

E-Mail: hspcbrodr@gmail.com

To,

The Chairman

Haryana State Pollution Control Board

Panchkula

Sub.- Regarding failing of air emission sample under the provisions of Air Act, 1981 of M/s Radhey Radhey Minerals, village Bayal, Tehsil Nangal Chaudhary, Distt. Mohindergarh.

Ref.- Head office letter No. I/82194/2021 dated 15.12.2021.

In this connection, it is submitted that unit was inspected by the team constituted in compliance of the Hon'ble NGT order dated 14.07.2019 in OA No. 599/2019 titled as Bishamber Singh Vs State of Haryana and Ors. During site visit of joint team observed various deficiencies at site. **(copy of Inspection Report is attached)**

The team has also collected air emission sample of the unit and as per analysis report No. 444 dated 30.10.2020, parameters are found exceeding the prescribed limits. Show Cause Notice for closure was issued to the unit vide this office letter no. HSPCB/DHR/2020/3501 dated 04.11.2020. Reply submitted by the unit found not satisfactory as unit has neither complied with the observation of SCN so issued nor installed adequate air pollution control measures as per prescribed guidelines. Further, the Competent Authority vide letter No. HSPCB/PLG/2019/5520-43 dated 25.02.2019 has already ordered that units, having structurally inadequate pollution control devices and found non complying with the prescribed standards for discharge of pollutants and/or closed by the Board due to non compliance of the prescribed standards, shall not be allowed to operate and shall not be given time for modification/upgradation of pollution control devices with curtailment of production proportionate to the existing capacity of the pollution control devices and closure order issued against such non complying units under the provision of Air Act, 1981 shall not be suspended provided the structurally adequate pollution control devices for making the compliance by making the required rectification and modification/upgradation in their existing pollution control devices with the norms stipulated to them for discharge of pollutants, even after they have deposited the performance security and undertaking. Hence, in compliance of Head Office closure order No. I/10203/2020 dated 02.12.2020, unit was closed and sealed by the Board and compliance report was sent to Head Office vide letter No. 5125 dated 21.01.2021.

File No.HSPCB-230004/52/2021-Region Dharuhera-HSPCB

I/84022/2021 Prosecution under relevant acts against the unit has already been filed in Special Environment Court, Faridabad & this office has recommended Environmental Compensation and sent to Head Office vide this office letter No. I/63495/2021 dated 09.09.2021.

Further, unit has filed an appeal in Appellate Authority, HSPCB, Panchkula which is pending before Appellate Authority, HSPCB, Panchkula.

Now, a representation of unit regarding re-open and re-sampling has been received from Head Office vide letter No. I/82194/2021 dated 15.12.2021 in which unit has submitted that:-

1. They mineral grinding unit follows all environmental norms issued by the HSPCB.
2. At the time of sampling a bag filter was not proper work i.e. leakage the bag filter, due to this parameters are exceeding the prescribed limit.
3. At the time they had rectified the leakage by changing the bag filter so that no emission can be produced.
4. Also they had installed a dusty collector for collecting fumes and control air emission.
5. They had installed all required APCM as per mineral guidelines dated 02.04.2012.
6. They had deposited Performance security of Rs. 12500/- vide DD No. 508167 dated 04.12.2020
7. They have deposited Air sample testing fees of Rs. 1500/- vide DD No. 508166 dated 04.12.2020.
8. Unit submitted temporarily Disconnection for DHBVN, modification scheme and affidavit (copy attached).

Keeping, in view of above, considering the appeal filed by the unit in the Appellate Authority regarding re-sampling & suspension of closure order and request submitted by the unit alongwith requisite documents for re-sampling and suspension of closure order as per policy of the Board; it is recommended that request of the unit may be considered for re-sampling and suspension of closure order as per policy of the Board after taking legal opinion from Legal Cell or the matter may be placed before the Technical Advisory Committee (TAC) before taking any further action in this regard.

DA/- As above

Signed by Mohit Moudgil

Date: 22-12-2021 19:45:02

Reason: Approved
Regional Officer
Dharuhera Region

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Appeal No. 37/2022
(I.A. Nos. 200/2022 & 201/2022)

Haryana State Pollution Control Board & Anr.

Appellant(s)

Versus

M/s. Rathi Mineral & Chemicals

Respondent

Date of hearing: 02.09.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Anil Grover, Senior AAG with Mr. Rahul Khurana, Advocate for
Appellant (HSPCB)

ORDER

1. This Appeal has been preferred against order dated 03.02.2022 in Appeal No. 98/2021 passed by the Appellate Authority (Haryana) under the Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 in appeal filed by the respondent. By the said order, the Authority in question allowed the appeal in question against the order of the State PCB dated 01.12.2020 ordering closure of the respondent unit.

2. It may be noted that earlier, this Tribunal dealt with issue of operation of stone crushers in Village Bayal, District Mahendragarh, Haryana, adjacent to mineral grinding industry, in violation of environmental norms. Vide order dated 11.02.2020, in the light of report

of the CPCB, State PCB and District Magistrate acknowledging the violations, the Tribunal issued directions for remedial action. The direction particularly required following of laid down siting criteria, allowing units only to the extent of carrying capacity of the area in terms of assimilative air quality and having necessary pollution control devices and other safeguards.

3. In the light of above, the State PCB conducted inspection on 30.10.2020 and finding violations by the respondent, passed order dated 02.12.2020, after giving opportunity to the respondent. The order mentioned following violations:-

- “1. *As per analysis report no. 452 dated 03.11.2020, parameters were found exceeding the prescribed limits.*
2. *As per guidelines issued by HSPCB, which has also been included as specific conditions in Consent to Operate granted to mineral grinding units, the industry is required to cover **minimum 33% of the land on which industry established, by planting at least two rows of tall trees of suitable species along the boundary on all sides and such plantation should be carried out within a minimum width of 10 meter.***
3. *The waste/refuse/dust generated during the process of mineral grinding was found to be dumped in back yards of the units, open land at various places in the village and on sites of village roads.*
4. *Mineral grinding units have installed APCM (covered shed, bag filter/dust collector, hoppers for storage of crushed material and conveyor belts). But as per the observation made by site inspection team, **APCM installed by the units were not found adequate due to the lack of maintenance and in non operational conditions.***
5. *Covered open atm observed. APCM installed to control dust found not successful as lot of shod provided by the units were observed any places and fugitive emissions were also m the covered shed, hence, st emission within the scraen hot fugitive dust emission from the shed has not been installed.*
6. ***The dust collected from the bag filter is not handled properly and disposed off in open causing fugitive emissions.***

- 7. **Lack of water sprinkling has been observed to curb the fugitive emission from the stock piles, dust collected from bag filter and from the movement of vehicles.**
- 8. Unit has installed jaw stone crushing machine separately from the covered shed of the rotary screens and has provided separate covered shed but found inadequate and causing fugitive emission.
- 9. **As per guideline of HSPCB, the minimum area of land for establishing a mineral grinding unit should be such that after establishing plant and machinery and having supply space for material stock and movement of vehicles there is enough space all around for plant atleast two rows of plant along the periphery.**
- 10. No sign board showing the name, address and capacity of the industry has found displayed at the entrance of the site.
- 11. **No protective equipment like dust mask, helme shoes, goggles, ear plugs should be utilized by all the workers during operation of plant.”**

4. Show-cause notice dated 04.11.2020 was issued to the unit and finding the reply not satisfactory, the unit was directed to be closed.

5. The Appellate Authority has set aside the said order only on the ground that the appellant should have re-inspected the unit. There is no consideration of the fact that the unit was causing air pollution and had failed to provide requisite extent of plantation and air pollution safeguards without which unit could not be allowed to function. The relevant extract from the order is reproduced below:-

“6. I have gone through the memo of appeal, case file and the averments made by both the parties. In fact, the Board should have considered the request of the appellant unit as per the Boards policy for re-inspection /re-sampling and get it analyzed from the Lab before passing the closure order. It is evident that Board has failed to follow its own policy before passing the closure order.

7. In view of the above, the appeal of the appellant unit is allowed and orders dated 01.12.2020 is set aside. The Board is directed to re-inspect the unit and collect sample afresh and get the same analyzed from the authorized lab and only inspection report/analysed report conducted in compliance of this order shall be considered by the Board while passing

afresh order and no action on the basis of earlier inspection report shall be taken by the Board.”

6. We have heard learned counsel for the appellant.
7. Learned counsel for the appellant submitted that once violations of serious nature were established, the closure order could not be interfered with merely on one sided claim of the PP that it had rectified the deficiencies. The appellate authority should have first satisfied itself that no pollution will be caused by reopening of the unit. Even if fresh inspection is to be carried out, opening of unit could only be if there was no pollution. Environmental issues are governed by precautionary principle and right to do business is subject to environmental compliance. The impugned order interferes with the closure even before verification of the claim for compliances which is not legally permissible.
8. We find *prima facie* merit in the contentions and it will be against interest of justice to allow operation of impugned order atleast till independent verification of compliance status.
9. Issue notice to the respondent. In the meanwhile, the operation of the impugned order is stayed. However, the appellants are at liberty to carry out fresh inspection to ascertain the status of compliance and take a decision based on such inspection, in accordance with law.
10. We note that the Appeal is barred by limitation but learned counsel for the appellant states that this may be treated as MA in O.A No. 599/2019, *Bishamber Singh v. State of Haryana & Ors.* or an independent OA to protect environment.
11. This aspect will be considered in the light of response of the respondent.

List for further consideration on 17.10.2022.

The appellant may serve the respondent and file affidavit of service within one week. Registry may also send a notice to the respondent by email.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

September 02, 2022
Appeal No. 37/2022
(I.A. Nos. 200/2022 & 201/2022)
AB



Tarun Gupta <officeofadvtarungupta955@gmail.com>

Additional Documents in Appeal No. 26 of 2022

1 message

Tarun Gupta <officeofadvtarungupta955@gmail.com>
To: groveradvocate@rediffmail.com

Tue, Sep 13, 2022 at 7:22 AM

Dear Sir,

Please find enclosed copy of the Additional documents filed by Respondent in Appeal no. 26 of 2022 titled as Haryana State Pollution Control Board & Anr vs M/s Radhey Radhey Minerals.

Regards,

Tarun Gupta

For the Respondent

**Additional Documents in Appeal No 26 of 2022.pdf**
6826K