

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL NO. 217 OF 2025 (WZ)

IN THE MATTER OF:

SURTI MOHAMMAD IRFAN

... APPELLANT

VERSUS

STATE OF GUJARAT & ORS.

... RESPONDENT

**LEGAL SUBMISSIONS TO ASSIST HON'BLE TRIBUNAL ON BEHALF
OF RESPONDENTS**

1. An appeal came to be filed under Section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the "Water Act") before the Appellate Authority challenging the Consolidated Consent and Authorisation dated 20.11.2024 granted in favour of M/s N. H. H. Textile Processors by the State Pollution Control Board.
2. Undeniably, M/s N. H. H. Textile Processors was not made a party respondent in the appeal filed before the Appellate Authority, even though the appeal sought to disturb a permission granted in favour of M/s N. H. H. Textile Processors and cancellation of which permission without a doubt would prejudice M/s N. H. H. Textile Processors.
3. Appellate Authority rejected the appeal by order dated 6.05.2025. One of the grounds for rejection of appeal is non-joinder of M/s N. H. H. Textile Processors as a party in the appeal proceeding.

hu

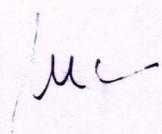
4. Assuming that the phrase "any person" appearing in Section 28 of the Water Act entitles a third person to challenge any permission granted by the State Pollution Control Board to an industrial unit, it is a fundamental principle of law that such industrial unit in whose favour the permission has been granted must be made a party to the proceeding wherein challenge is laid or sought to be laid to the permission granted to it and should be given a fair hearing. Any proceeding taken out without joining such industrial unit would suffer from the legal vice of non-joinder of necessary party, and render the proceeding not tenable in the eyes of law. As a natural corollary, any order passed in such proceeding without giving an opportunity of hearing to the affected party or party likely to be eventually affected would suffer from the vice of violation of principles of natural justice, and thereby render the order bad in law.

5. In the present case, it is a matter of record that M/s N. H. H. Textile Processors was not made a party in the appeal filed before the Appellate Authority. The appeal as filed before the Appellate Authority, on the face of it, suffered from omission of a necessary party. The appeal has been dismissed by the Appellate Authority amongst others on the ground of non-joinder of necessary party. This ground of dismissal of appeal is valid and does not warrant any interference by this Hon'ble Tribunal.

6. Again, it is a matter of record that M/s N. H. H. Textile Processors is not a party in the present appellate proceeding before this Hon'ble Tribunal. Any order passed in the present appeal by this Hon'ble Tribunal would therefore attract the taint of being passed without hearing M/s N. H. H. Textile Processors.

JL

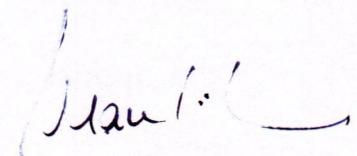
7. There is a legal distinction between maintainability of appeal and entertainability of an appeal. On demur that this Hon'ble Tribunal decides to adjudicate the present appeal and holds that the appeal filed by the present appellant before the Appellate Authority was and is maintainable, the Hon'ble Tribunal will be adjudicating on merits in absence of M/s N. H. H. Textile Processors. This Hon'ble Tribunal will be holding that an appeal filed challenging the Consolidated Consent and Authorisation granted in favour of M/s N. H. H. Textile Processors is maintainable and ought to have been heard on merits by the Appellate Authority without hearing M/s N. H. H. Textile Processors. Any pronouncement by the Hon'ble Tribunal on maintainability of appeal without a doubt can be said to be prejudicial to M/s N. H. H. Textile Processors, more so when such declaration is being in the appeal challenging the CCA granted to M/s N. H. H. Textile Processors. The question of law, as is settled law, cannot be decided in vacuum but has to be decided in the facts of the case. The facts surely concern M/s N. H. H. Textile Processors, and obligate M/s N. H. H. Textile Processors being heard before passing of any order by the Hon'ble Tribunal.
8. Going a step ahead, the Hon'ble Tribunal after holding that appeal at the instance of a third party is maintainable will have two courses open before it – one to proceed to examine the merits of the challenge by itself (legality of CCA granted to M/s N. H. H. Textile Processors) or second to remand the case back to the Appellate Authority for deciding the appeal on merits. Either of the two orders can be perceived as being prejudicial to M/s N. H. H. Textile Processors, making it absolutely necessary for M/s N. H. H. Textile Processors to be heard before passing of any such order by the Hon'ble Tribunal.



9. Recently, several orders passed by the Hon'ble Tribunal determining environmental damage compensation and directing its levy on the project proponents who are found violating the environmental laws without such project proponents being a party in the proceeding before it and consequentially without hearing them have been set aside by the Hon'ble Supreme Court of India.

- Triveni Engineering and Industries Limited vs. State of Uttar Pradesh & Ors. – Civil Appeal No. 8119-8120 of 2022 [2025 INSC 1060]
- Grasim Industries Limited vs. State of Madhya Pradesh – (2024) SCC Online SC 3538

In both these cases, the Hon'ble Tribunal had proceeded to pass orders against parties which were not a party respondent before it and without hearing the affected parties. Disapproving such orders of the Hon'ble Tribunal, the Hon'ble Supreme Court in the case of Triveni observed that "this is a classic case where in the quest of doing justice, NGT has ended up doing just the reverse". It is respectfully submitted that present will also be a case where any order passed by the Hon'ble Tribunal entertaining the present appeal and adjudicating any of the issue raised in the appeal will be tainted with the vice of illegality only on the ground of violation of principles of natural justice, in as much as the said order or the observations made in the said order will likely cause prejudice to M/s N. H. H. Textile Processors, without M/s N. H. H. Textile Processors being a party to the proceeding and without M/s N. H. H. Textile Processors being given an opportunity of hearing.



Maulik Nanavati

Advocate