

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

OA No. 495 /2023

In the matter of

MOHD AMJAD & ANR

Applicants

Versus

STATE OF UP & ORS

Respondents

INDEX

S.No.	Particulars	Page No.
1.	Objections on behalf of the Applicant against the reply of the Respondent no. 7 and 8 and in light of the Inspection Report by CPCB dated 24.01.2024 and earlier report dated 21.11.2023	1-9

Date:19.03.2024

New Delhi

FILED BY:-



**RAHUL KHURANA & HASIL JAIN
Advocates
Chamber No. 295, Lawyer Chamber Block II
Delhi High Court, New Delhi
M. 9811894060, 7838707338**

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

OA No. 495 /2023

In the matter of

MOHD AMJAD & ANR

Applicants

Versus

STATE OF UP & ORS

Respondents

**OBJECTIONS/SUBMISSIONS ON BEHALF OF THE APPLICANT
IN LIGHT OF THE INSPECTION REPORT BY CPCB DATED
24.01.2024 AND EARLIER REPORT DATED 21.11.2023 AND
THE REPLY OF THE RESPONDENT NO. 7 AND 8.**

Most Respectfully Showeth:

1. That the Applicants in the present Original Application have brought to notice before the Hon'ble Tribunal about the sudden discharge of pollutants in the Banganga river in the Shukratal Ghat by the Respondent unit no. 7 and 8 located in Laksar area and which fact resulted into the FIR dated 08.07.2023 registered in PS Bhopa District Muzaffar Nagar.
2. That the said FIR has been registered at the instance of the Regional Officer Pollution Control Board.
3. That the Hon'ble Tribunal took cognisance of the same vide order dated 14.08.2023 and constituted a Joint Committee to inspect and verify the factual position.

4. In terms of the said Order the Inspection was conducted. That in respect of the inspection done during the non-operational period of the units, certain recommendations and findings has been made by the joint Committee for the units.
5. The Committee observed at running page no. 67 as under:
- *"Analysis results of the samples collected from the lagoons clearly indicate that the unit is storing bio-methanated spent wash (BMSW) in lagoons-1 & lagoon -3, raw spent wash (RSW) in lagoon -2. which is in violation of CPCB direction dated 07.12.2015.*
 - *CPCB direction dated 7.12.2015 clearly stated that in case of bio-composting, the unit could strictly restrict its lagoon capacity to thirty days' storage equivalent of concentrated spent. However, even during monsoon season lagoons were found filled with BMSW/RSW and as these lagoons are located adjacent to Laksar drain hence the possibility of overflow/discharge of spent wash in the Laksar drain can't be ruled out."*
6. As far as violation is concerned the Committee has observed at running page no. 68 that
- "Violations observed by the committee in M/s RBNS Sugar & Distillery units:
- i) Lakshar drain flow besides the ETP unit and there is no boundary wall near the ETP area for demarcation.
As there is no boundary wall between ETP & Lakshar drain, possibility of discharge of untreated effluent in to drain can't be ruled out.

- ii) Unit is not having an comprehensive irrigation management plan.
 - iii) Unit is not having any sewage treatment plant as stipulated in the consent.
 - iv) In the distillery plant, as per the analysis results of the samples collected from all the lagoons the total solids were found below 30% which is in violation of CPCB direction dated 07.12.2015.
 - v) Unit was not complying with CPCB bio-compositing SOP.
7. A regard the ground water quality outside the RBNS Distillery Unit and Sugar Unit ,it was observed that
- a) The sample of ground water near the industry appeared to be **yellowish in color.**
 - b) COD is 73**
 - c) The laboratory analysis results indicated that TDS, Total alkalinity, Iron and Manganese exceeded the acceptable limit notified by the Bureau of Indian Standards (BIS) IS 10500:2012 in all three samples.
 - d) Colour exceeded the acceptable limit in two samples viz. within M/s R.B.N.S. Sugar unit (7 Hazen) and M/s R.B.N.S. distillery (near bio-compost yard) (43 Hazen).
8. Further effect of Bio Compost Yard on the nearby filed was also observed and found that fields belonging to farmers from nearby villages were inundated with water from the compost yard or rain. Analysis results of the sample collected from the fields near bio-compost yard shows pH- 7.5, COD- 168 mg/l BOD-25 mg/l TSS- 98 mg/l, TDS 1272, Cl- 80 mg/l and Phosphate 0.1mg/l. From Analysis results it is quite evident that though the low lying area was filled with rain water but the impact of seepage of spent wash from bio-compost yard can't be ruled out.

9. Further at running page 89 the Committee has observed that:

"The drain flow adjacent to these lagoons, and damage to the lagoon walls at various locations indicated the possibility of episodic discharge of untreated wastewater into Laksar drain. Further, the Laksar drain passes adjacent to the ETP of Sugar plant with no defined boundary between the unit's ETP and Laksar drain which further indicates the possibility of discharge of untreated/partially treated effluent into the Laksar drain."

10. That the Hon'ble Tribunal vide order dated 22.11.2023 called for fresh inspection report.

11. In terms of the fresh inspection report dated 24.01.2024 the following were observed:

a) Ground water abstraction

- The unit has NOC for 01 borewell, however the unit has installed 2 borewells. And The unit has not installed flow meters at any of these two borewells.
- As per the ground water quality report the **COD is 33mg/l** at the Piezo well near the lagoon area.
- Analysis results of samples collected from handpump located outside of the unit shows COD- 6 mg/l.

b) Ambient air monitoring for particulate matter

Analysis results of samples for Particulate Matter (PM 10) at near ETP and near guest house shows 118 µg/m³ and 127 µg/m³ respectively, which are non-complying against NAAQ standard of 100 µg/m³.

c) Fly ash and emissions

- Ash generated (quantity-5774.45 MT- 10% of Bagasse as per DMR) and disposal details not provided from boiler

and APH was observed to be dumped in the low lying areas within the mill premises.

- The joint team has observed that the unit has not maintained the proper record of ash disposal in low lying area.
- During visit, fugitive emission of bagasse particles observed in and around the boiler and near bagasse storage area.

d) ETP

- The analysis results of sample collected from the ETP outlet (pH- 7.4, COD- 108 mg/l, BOD- 33 mg/l, TSS- 29 mg/l, TDS- 3840 mg/l, Oil & Grease- 53 mg/l) indicates that the treated effluent from the ETP is not complying w.r.t. the notified standards for surface water discharge i.e. pH- 5.5-8.5, BOD- 30 mg/l, TSS- 30 mg/l, TDS- 2100 mg/l).
- It was observed that the unit has facility to trap Oil & Grease, however, the location of oil and skimmer belt was not appropriate to collect the entire Oil & Grease content of the effluent.
- Lime dosing and mixing system was not operating properly.
- The unit has provided equalization tank in the ETP, however no arrangement for air mixing was provided.

e) Ground Water in Sugar unit.

Analysis results of samples collected from Borewell located in unit premise was found within the permissible limit as per BIS IS 10500:2012 except **COD (12 mg/l)** in the sample, which indicates posing potential threat to ground water and need urgent attention towards improvement of housekeeping, prevention of seepage, spillage etc.

f) **SRS outlet**

Analysis results of sample collected from f showing reduction of ~12.53% in BOD, ~9.68% in COD and ~7.25% in TDS. However, Sulphate was increased by 24.5% from inlet to outlet, which indicate inefficient operation and maintenance of SRS system.

g) **Analysis downstream of unit at Akhoda Kalan village at Laksar drain**

Based on the analysis results, the quality of Laksar drain near Akhoda Kalan village (1.68 Kms*) shows **Deteriorated Condition**, therefore, the possibility of effluent mixing with sewage in drain cannot be ruled out. However, no bypass of industrial effluent (sugar/distillery) was observed from the unit during inspection.

12. In light of the above facts reported in the Joint Committee report, it is submitted that there is overwhelming material showing violation of environmental norms by the Respondent unit 7 and 8 like the ground water contamination, breach of air quality standards, etc.
13. Further the fact that Laksar drain is open channel flowing adjacent to the industry and with no defined boundary of drain and ETP of unit, and due to storage of spent wash in lagoon for more than 30 days (which is violation of consent condition) even during the monsoon period when industry is non operational proves the allegation that the spent wash has been discharged in the Laksar drain which flow adjacent to the Lagoons. This is also supported by the fact that effect of such bio compost on the nearby fields has already been recorded by the Joint Committee.

14. It is humbly submitted that standard of proof in the environmental justice cannot be strict proof or proof beyond reasonable doubt. When the material on record establishes possibility that the Unit has committed an Act, then the onus that the violator has not committed the act shifts upon him.
15. That the Respondent no.7 and 8 in its reply has taken the stand of no violation on their part. This stand is contrary to the findings of the Joint Committee report dated 24.01.2024 and previous report dated 21.11.2023.
16. That, further the Respondent 7 and 8 in their reply have not denied or countered the findings of the Joint Committee in its reports dated 21.11.2023 and 24.01.2024, which shows the implied admission of violations.
17. That in the submission of the Applicant the brown water discharge at the Shukratal Ghat points to the spentwash from the distillery unit. And in the knowledge of Applicant, the Respondent distillery unit is the only distillery in the upstream of Shukratal Ghat. Further the contention of the Respondent unit that the Ghat is various kms away from the Unit is unsustainable in light of the fact that there are 5 lagoons with huge capacity which were lying untreated for more than 30 days. And thus further gives support to the allegation that the Respondent unit is liable for the release of huge amount of brown water on the alleged date of incident at the Shukratal Ghat.
18. It is humbly submitted that there is rarely a direct evidence available in the environmental inquiry and thus the closure report in the 2 FIRs for lack of evidence cannot be the basis for discharge of the Respondent units from environmental violations. The

standards of criminal inquiry cannot be imputed upon the environmental liability which is civil and circumstantial in nature.

19. That the circumstantial evidences in the present inquiry and findings of the Joint Committee are sufficient to hold the Respondent units liable for the violation.

Prayer

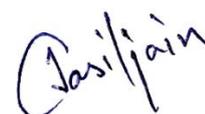
It is humbly submitted before the Hon'ble Tribunal that appropriate Environmental Compensation be imposed upon the the Respondent units for the violations.

Dated 19.03.2024



Applicant

Through



Counsel