

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

Original Application No. 65/2021

In the matter of:

"News item published in The Times of India dated 28.02.2021 titled
"Delhi:Man charred to death as illegal factory catches fire"

NDOH:09.09.2024

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Filed by



M. S. Rawat
Sr. Environmental Engineer

Dated: 5th.09.2024

Place : Delhi

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In the matter of:

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STATUS REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE WITH RESPECT TO ORDER DATED 21.05.2024.

IT IS MOST RESPECTFULLY SHOWETH:

1. This status report is being filed in compliance to the orders passed by this Hon`ble Tribunal dated 21.05.2024.
2. That it is necessary to bring following facts to the notice of this Hon`ble Tribunal for fair and just adjudication:
 - (A) That on 27.02.2021 at about 03.34 A.M. a fire incident has occurred at the first floor at the premises located at Shri Swastic Silicate Mill, 10, Rambagh, Kishan Ganj, Delhi and a news item was published in times of India on 28.02.2021 titled "Delhi: man charred to death as illegal factory catches fire".
 - (B) That on the basis of news report, this Hon`ble Tribunal took up Suo Moto Petition No. 65 of 2021 which came up for hearing 02.03.2021 when this Hon`ble Tribunal has pleased to pass following order:

"4. While directing issuance of notice to the CPCB, the DPCC, the North Delhi Municipal Corporation and the

District Magistrate, North Delhi by e-mail, we constitute a five-member joint committee comprising CPCB, DPCC, Director Industrial Safety, Delhi the North Delhi Municipal Corporation and District Magistrate, North Delhi. The nodal agency for coordination and compliance will be the CPCB and the DPCC. The joint Committee may visit to the site and give its report about the cause of the incident, the extent of damage caused, the extent of compensation required to be paid for damage to the environment as well as for loss of lives, injuries and steps required to be taken for preventing any such occurrence in future within one month. Except for visit to the site at least once, the Committee will be free to conduct its proceedings online. It will be free to take the assistance from any other expert/organization. The Committee may suitably interact with the stakeholders and, apart from considering the present incident, also consider remedial measures for preventing such incidents in the area or by other establishments, even beyond the said area, in Delhi. The Committee may compile information about existence and working of onsite and offsite plans in terms of 1989 Rules and conducting of mock drills and safety SOPs and compliance status of environment norms. Since in the recent past, the Tribunal has dealt with similar issues of industrial accidents resulting in deaths and injuries and Expert Committees in some of such accidents have given reports to this Tribunal, such reports may also be taken into account by the Committee to the extent relevant. The reports are available on the website of the CPCB. Simultaneously, the report may also be uploaded on the website of the CPCB to enable the concerned stakeholders to access the same and file their response, if any.”

- (C) That in compliance of the order of this Hon`ble Tribunal, Committee consisting of CPCB, DPCC, Delhi Fire Service, Industrial Safety & Health- Labour Department, North Delhi Municipal Corporation, Revenue Department and Delhi Police has visited the site on 09.04.2021 wherein it has been found that M/s. Gujranwala Gokul Trust Society is a society registered under Societies Registration Act. A lease agreement dated 13.06.1979

was executed between M/s. Shri Swastika Silicate Mills, 18, UV, Jawahar Nagar, Delhi through its Partner, Smt. Prem Lata Gupta, W/o. Shri J.P. Gupta and M/s. Gujranwala Gokul Trust Society through its President Shri Sukhdev Mehta.

- (D) That the said property was again rented out on 18.04.2001 by an agreement made between M/s. Gujranwala Gokul Trust Society through its Secretary, Smt. Renu Mehta, W/o. Shri Vijay Mehta and M/s. Shri Swastika Silicate Mills through Smt. Veena Gupta as a tenant. Under the agreement the tenant was authorized further to sublet, assignee or otherwise part with possession of the tenanted premise. Further Shri Vijay Gupta, C/o. M/s. Shri Swastika Silicate Mills rented out the said premises to three persons.
- (E) That the building was being used against the provisions of Master Plan of Delhi and provisions of the environmental legislations. No firefighting equipment to extinguish the fire was found installed in the premises and an emergency stair case from first floor to terrace found permanently closed. The activities were carrying on in the said premises without obtaining any statutory permission from any department.
- (F) That the Committee has calculated the environmental compensation of Rs. 96,18,750/- on Shri Vijay Gupta, C/o. M/s. Shri Swastika Silicate Mill who let out the said premises to various users. A detailed report dated 18.08.2021 was submitted to this Hon'ble Tribunal.
- (G) That this Hon'ble Tribunal by judgment dated 31.07.2021 has accepted the said report and directed that compensation assessed may be recovered within one month. Legal aid to be provided to the heirs of deceased to enable due compensation to be paid to them. Liberty was also given to the tenant/owner, if agreed to take their remedies including to move to the Hon'ble Tribunal.

- (H) That thereafter Sh. Vijay Gupta (Appellate No. 2 before the Hon`ble Supreme Court) filed Review Application No. 37 of 2021 before this Hon`ble Tribunal, which was heard on 26.11.2021 and the Review Petition was dismissed.
- (I) That against the main judgment as well as the order dismissing the Review Petition a Civil Appeal bearing number 1865-1866 was filed. The Hon`ble Supreme Court vide order dated 30.01.2024 remand back the matter before this Hon`ble Tribunal.
- (J) That in view of aforesaid facts and circumstances no interference is being called for in the impugned orders passed by National Green Tribunal.
3. That the unit which faced fire accident is located in residential area, which is not permitted as per Master Plan of Delhi (MPD). The premises consisted of ground floor, first floor and terrace covered with tin shed. The total area of the premises around 1000 square meter approximately. The ground floor found used as Godown by M/s Delhi U.P. Madhya Pradesh Transport Company. The first floor was comprised of total 14 rooms of different sizes and it was reported by the nearby residents(refused to reveal their identities) that the fire was started from the room, which was used for manufacturing of Lipstick/Nail Polish. Out of 14 rooms located at the first floor, Sh. Sanjay Prasad had rented three (03) rooms and being used for manufacturing of Lipstick/Nail polish. As reported by Sh. Sanjay Prasad, the raw materials used for manufacturing of nail polish/lipstick are oil, wax, colour, perfumes, Rose Extracts, DM water, lacquer and camphor. Raw materials are purchased from the market and heating is carried out through LPG cylinder. After that raw materials are mixed together in Stainless Steel mixture and thereafter the mixed material are kept sometime in homogenous mass for cooling and then filled in container for solidification. Finally, the material is packed and labelled for dispatch to customer. No firefighting equipment to extinguish the fire found installed in the premises. However, an emergency staircase found provided from first floor to terrace in the premises which found permanently closed.

4. During the said unfortunate accident, a worker namely Sh. Upchand S/o Sh. Raja Sah, aged 22 years was recovered in charred state due to fire. Another worker Sh. Susheel Kumar also received severe burn injuries in the said accident. As reported, in the said lipstick manufacturing factory four (4) number of workers were working but the exact number of workers working in the said unit could not be ascertain in spite of best efforts.
5. The notice under section 10A(1) of the Employee's Compensation Act, 1923, has been issued to Sh. Sanjay Prasad to deposit Rs. 16,60,275- (Rs. Sixteen Lakh Sixty Thousand Two Hundred Seventy-Five only) in lieu of death of worker Sh. Upchand S/o Shi Ram Sah). Also Sh. Prasad has been directed to furnish percentage of disability of injured employee Sh. Sushil Kumar S/o Sh. Jimidar Sahni.
6. In the said premises, all the above-mentioned activities were operating without obtaining any statutory permission from any of the department.

Status of units in Non-Conforming areas of Delhi:

7. The Hon'ble Supreme Court has passed a judgment on 07.05.2004 in WP(C) No. 4677 of 1985 titled as "M.C. Mehta Vs. Union of India & Others" for closure of the illegal units from the residential/non-conforming areas in NCT of Delhi. As per the said judgment, all industrial units that have come up in residential/non-conforming areas in Delhi on or after 1st August, 1990 shall close down. In compliance thereof, the Chief Secretary, Delhi decided that action on industries operating in non-conforming areas and violating the Master Plan of Delhi will be taken by the land-owning agencies. Commissioner of Industries is working as a Nodal Officer on behalf of the Hon'ble Supreme Court Monitoring Committee as constituted by the Hon'ble Supreme Court of India in the judgment dated 07.05.2004.
8. The Chief Secretary, Delhi has taken a meeting on 08.12.2010, wherein it was decided that action on industries operating in non-conforming areas and violating Master Plan will be taken under the

Delhi Development Act by DDA in development area and MCD in other areas. This decision was reiterated again in the meeting held on 04.08.2015 which is as under:

“In the meeting of Chief Secretary, Govt. of N. C.T of Delhi held on 08.12.2010 for implementation of orders of Hon’ble Supreme Court dated 07.05,2004, it has already been decided that action on industries operating in Non-Conforming, areas and violating Master Plan of Delhi will be taken under the Delhi Development Act of Delhi Development Authority (DDA) in Development areas and Municipal Corporation of Delhi (MCD) in all other areas.

9. The Hon’ble High Court of Delhi in W.P(C) 4349/2017 titled as “Court On Its Own Motion versus Government Of NCT Of Delhi & others on 5.08.2019 while passing detailed order on the issue of continuation to use of premises for non- conforming activities specifically ordered:

“ We also direct the Delhi Pollution Control Committee to bring to the notice of Delhi Development Authority, North Delhi Municipal Corporation, East Delhi Municipal Corporation and South Delhi Municipal Corporations, if any industrial units are running their industry in nonconforming area and causing pollution beyond permissible norms, so that proper actions can be initiated by these authorities against these industries to stop such activities in accordance with law”.

10. The Hon’ble Supreme Court vide its order dated 04.11.2019 in WPC 4677/1985 specifically casted the responsibility on Zonal Deputy Commissioner regarding operation of illegal industry in non-conforming area in following manner:

“...Let a clear affidavit be filed with respect to the closing of the industrial units which are objectionable and we saddle the responsibility of compliance of the order upon the respective Zonal Deputy Commissioners of the Municipal Corporations. They shall be personally liable, in case any industrial unit is found to be running, not only in the law of torts but also for violating the order passed by this Court and they shall be liable to be proceeded with under the Contempt of Court Act. In case any unit is found to be running in violation of the Court order in future....”

11. In compliance with the judgment of Hon'ble Supreme Court as well as High Court of Delhi, DPCC restricted its functioning in the conforming Industrial areas (as also clusters of industries for redevelopment, as and when they were notified) on lines of the policy specified in relevant MPD in force. The industrial units in non-conforming areas are to be closed down by MCD/ DDA, as the case may be.
12. This Hon'ble Tribunal in OA No. 601/2018, entitled as "Mayank Manohar & Paras Singh, Reporter Times of India vs. Govt. of NCT of Delhi & Ors" was taken up regarding industries functioning in non-conforming areas of Delhi. This Hon'ble Tribunal also constituted an Oversight Committee, vide order dated 24.01.2019 in this matter, to prepare a time bound action plan to deal with the problem. This Hon'ble Tribunal closed the proceedings and directed to the Chief Secretary, Delhi to further monitor the issue in terms of order of the Hon'ble Supreme Court in M.C. Mehta (supra).
13. As per the provisions contained in Delhi Fire Service Rules, 2010, the buildings which are covered under Rule 27 are required to be referred to Delhi Fire Service by the local authorities (i.e. MCD, NDMC, DDA etc.) or any other statutory authorities as per sub rule (1) of Rule 34 of Delhi Fire Service Rules, 2010. The industrial occupancy having covered areas on all floors more than 250 square meter is covered under sub rule (9) of Rule 27 of Delhi Fire Service Rule 2010 and building plan of such occupancy are required to be referred to Delhi Fire Services for scrutiny from Fire safety point of view.
14. The Environmental Compensation Damages should be imposed on the owner of the property i.e. Sh. Vijay Gupta c/o M/s Shree Swastika Silicate Mills, 18, UB Jawahar Nagar, Delhi -07 and to the following owner of the units as both landlord and tenants are equally responsible for this tragic fire incident: -
 - a) Sh. Heera Lal Raheja S/o Sh. Paras Ram Raheja, resident of K-6, 2 floor, Partap Nagar, 10, State Bank of India, Sadar Bazaar, Delhi.
 - b) Sh. Sanjay Prasad S/o Sh. Ram Prasad, resident of A-175, S.K.-1, Sector-93, Gautam Buddha Nagar, Noida, Uttar Pradesh-201301.
 - c) Mrs. Babita Mishra w/o Sh. Deepak Kumar Mishra (C/o ADG

Canvas Pvt. Ltd.) resident of House no. 34, First Floor, I-Block, Gali no.35, Mahendra Park, Adarsh Nagar, New Delhi-110033).

d) The premises was rented out for use of commercial purpose by Sh. Vijay Gupta c/o M/s Shree Swastika Silicate Mills, 18 UB Jawahar Nagar, Delhi - 07 to Sh. Sanjay Prasad S/o Sh. Ram Prasad, resident of A-175, S.K.-1, Sector-93, Gautam Buddha Nagar, Noida, Uttar Pradesh 201301.

e) Sh. Vijay Gupta failed to comply with the conditions as mentioned in the Rent Agreement. The activity falls under Orange Category which is not permitted as per MPD.

15. As per Environmental Compensation Policy framed in compliance of NGT order dated 31.08.2018 in OA no. 593/2017, the Environmental Compensation as per the following formula should be imposed:

$$EC = PI \times N \times R \times S \times LF1 \times LE2$$

EC - Environmental Compensation

PI - Pollution Index of Industrial Sector (50 for Orange category)

N - Number of days of violation (513 days)

R - A factor in Rupees for Environmental Compensation (Rs.250 as average Rupee factor as recommended by CPCB)

S - Factor for scale of operation (0.5)

LF1 - Population factor where unit is located (2.0 for NCT of Delhi)

LF2 - Type of industrial collector in conformity with MPD in which unit is located (1.5 for non-conforming area)


The total amount of Environmental Compensation as per the above said formula:

$$EC = 50 \times 513 \times 250 \times 0.5 \times 2 \times 1.5$$

EC = Rs 96,18,750/- (Rs. Ninety Six Lakhs Eighteen Thousand Seven Hundred Fifty Only)

Hence, the Environmental compensation of Rs. 96,18,750/- (Rs. Ninety Six Lakhs Eighteen Thousand Seven Hundred Fifty Only) as calculated above w.e.f. from 01.10.2019 (initial date of rent agreement) to the date of fire i.e. 27.02.2021 (total 513 days) was levied to Sh. Vijay Gupta c/o M/s Shree Swastika Silicate Mills, 18 UB Jawahar Nagar, Delhi -07.

16. That, DPCC has issued Show Cause Notice on 23.09.2021 for imposing Environment Damage Compensation to Sh. Vijay Gupta C/o M/s Shree Swastika Silicate Mills, 18 UB Jawahar Nagar, Delhi - 110007 of Rs. 96,18,750/- (Rs. Ninety Six Lakhs Eighteen Thousand Seven Hundred Fifty Only) in view of the Hon'ble NGT order dated 31.08.2021, as per EDC policy of DPCC dated 20.05.2019.
17. That, the DPCC has issued Directions for imposing Environmental Compensation on 21.12.2021 has been issued to Sh. Vijay Gupta C/o M/s Shree Swastika Silicate Mills, 18 UB Jawahar Nagar, Delhi - 110007.
18. That a letter dated 03.02.2022 has been issued to District Magistrate (Central) for Recovery of Environmental Damages Compensation (EDC) as arrears of land revenue and to remit the same to DPCC.
19. The present response may kindly be taken on record.


M. S. Rawat
Sr. Env. Engineer

Dated: 5th 09.2024

Place: Delhi