

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 16 OF 2021

IN THE MATTER OF:

VINIT KUMAR

... APPLICANT

VERSUS

DSM SUGAR MILLS LTD& ORS.

... RESPONDENTS

INDEX

S. NO.	PARTICULARS	PAGES
1.	RESPONSE TO THE JOINT COMMITTEE REPORT DATED 31.12.2021	
2.	<u>ANNEXURE-A/1</u> The copy of the photographs dated 16.11.2021 showing fresh mud and effluent in the drain backside ETP of the sugar mill	
3.	<u>ANNEXURE-A/2 (Colly)</u> The copy of the photographs showing the storage of bagasse in open and a letter dated 16.12.2021	

THROUGH

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Place: New Delhi

Date: 09.02.2022

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RESPONSE TO THE JOINT COMMITTEE REPORT DATED 31.12.2021

MOST RESPECTFULLY SHOWETH:

1. That the Applicant has filed above titled application raising a substantial issue relating to environment regarding air and water pollution caused by Respondent No. 1 DSM Sugar Mills Ltd. in Mansurpur, Muzaffarnagar in Uttar Pradesh. By order dated 28.01.2021 this Hon'ble Tribunal directed for Joint Report by CPCB, UPPCB on the issues raising the application. Thereafter, UPPCB and CPCB inspected the site on 09.03.2021 and filed a report dated 29.06.2021 before this Hon'ble Tribunal. On the basis of report of the committee and the response of the Applicant the Hon'ble Tribunal observed as follows:

"6. We have heard learned Counsel for the parties. It is clear that the unit is discharging untreated effluents in the surrounding drain and also in a water body resulting in pollution. It has failed to maintain record of waste generated and its disposal. The unit is liable to compensate for the past violations and also to take remedial action."

The Hon'ble Tribunal further directed that the unit has to take remedial action for past violations, pay compensation on polluted pay principle to be used for restoration purpose within one month. The Hon'ble Tribunal further directed the Joint Committee comprising of CPCB, SPCB and District

Magistrate, Muzaffarnagar to assess the remedial measures and compensation for the past violations. The Hon'ble Tribunal also directed the committee to submit a report *inter alia* mentioning the status of compliance and mode of disposal of effluents, considering the circumstances and impact on River Kali.

2. That in compliance of the direction of the Hon'ble Tribunal dated 18.08.2021, the Joint Committee has filed a report dated 31.12.2021. The Applicant is making following submissions on the report:

(i) The Joint Committee inspected the site on 17.11.2021 when unit was operational, however, they have not inspected Gram Sabha Pond stating that the same was not approachable. It is submitted that the drain coming from the unit of Respondent No. 1 is directly meeting the Gram Sabha pond and this drain further goes on to meet River Kali. One of the main concerns of the Applicant is with respect to the pollution of the Gram Sabha Pond. The Gram Sabha pond was very much accessible when the inspection was done and the explanation given by the Joint Committee to not inspect the pond cannot be accepted.

(ii) The Joint Committee in their report dated 29.06.2021 (**at page 55 of the paper book**) had inspected the Gram Sabha pond and found PH at 5.4, COD1110, BOD597, TSS205, Phosphate 1.45 and Ammonia 2.3. The result of the report shows that the water quality of the pond is much beyond the permissible limit and the same is coming from the drain from the premises of the unit of Respondent No. 1.

(iii) That the Joint Committee has also not collected samples from all the locations as it was done while submitting the report dated 29.06.2021. The committee has not inspected the drain located Gram Sabha pond and near Kali River.

- (iv) The Joint Committee in this report on inspection of Respondent No. 1 M/s DSM Sugar has shifted all the burden with respect to pollution in Mansurpur drain which is behind DSM Sugar Mill on the Distillery unit which is adjacent to the Sugar Mill. It is pertinent to point out that in their report dated 29.06.2021 the committee on the pollution from DSM Sugar has shifted the burden on the pollution coming from the sewage.
- (v) That the report has given the finding the drain behind the sugar mill premises near railway track was found having no effluent however, wet sludge was found in the drain. It is submitted that the finding of the committee cannot be relied as the Applicant has taken the photographs on 16.11.2021 and found that the drain was filled with fresh mud and also effluents are being discharged. The copy of the photographs dated 16.11.2021 showing fresh mud and effluent in the drain backside ETP of the sugar mill is annexed herewith and marked as **ANNEXURE A/1**.
- (vi) That the Joint Committee has observed in their report dated 29.06.2021 that unit has not installed flow meter to measure amount of treated effluent. Further, in this report dated 31.12.2021 the Joint Committee has again recorded that the unit needs to install flow meter. The relevant observation is reproduced here for reference:
- “3.1 (3) The ETP was found operational at the time of inspection. The ETP of the Unit is located outside the unit premises and effluent is transported through pipelines. The Unit needs to install flow-meter with totalizer in the pipeline within the premise from where raw effluent is being pump for ETP and maintain the logbook for the same.”

- (vii) That the committee has recorded in para 3.2 of the report about non-compliance by the unit with respect to the recommendations in the report dated 29.06.2021. The status of compliance with respect to dismantling of pipeline was found partially complied. The unit was also found non-compliant with respect to providing separate and isolated area for storage of hazardous waste, chemicals container/drums and scraps and other materials which were found lying openly.
- (viii) That the calculation with respect to the compensation by the committee is also highly undervalued and is not considering the past violations and non-compliance by the Respondent No. 1. The committee has also not taken into consideration the cost of restoration of the area in the total calculation of the compensation to be paid by the Sugar Mill. It is submitted that the committee has calculated the compensation from 09.03.2021 to 27.06.2021 and 07.11.2021 to 17.11.2021. It is submitted that the total days for which the compensation has been imposed on Sugar Mill is starting from 09.03.2021 on which day the first inspection was done and non-compliance was found. However, it has to be considered that the unit was non-compliant even prior to the day when the Joint Committee inspected the premises. The Joint Committee has not looked into that though the drain was dismantled but there is no record as to how the effluent are being discharged. Just having affidavits from some farmers about utilisation of effluent from the Sugar Mill cannot be absolved from the liability of proper discharge of the treated effluent.
- (ix) That the Joint Committee has also failed to give any finding with respect to pollution from the bagasse particle from the Sugar Mill premises. The Hon'ble Tribunal in the order dated 18.08.2021 had

recorded that the report failed to highlight the pollution caused by bagasse particle but still the Joint Committee has not given any finding about the pollution caused from the bagasse particle. It is submitted that improper handling of the bagasse is causing air pollution in nearby locality. The U.P. Pollution Control Board in letter dated 16.12.2021 to Respondent No. 1 directed the Sugar Mill to take certain steps to control air pollution however, no steps are taken by Respondent No. 1. The Pollution Control Board in the past also in letter dated 10.03.2021 (**Annexure A/4 at page 100**) directed the DSM Sugar to take certain steps to control the air pollution. The copy of the photographs showing the storage of bagasse in open and a letter dated 16.12.2021 is annexed herewith and marked as **ANNEXURE A/2 (Colly)**.

- (x) The report has failed to look into the requirement of development of green belt by the Respondent No. 1 DSM Sugar. The Respondent No. 1 have no area green belt, but joint committee in this point is salient in this regarding.

3. It is submitted in the above facts and circumstances the Hon'ble Tribunal may direct the Joint Committee to do proper assessment as directed by this Hon'ble Tribunal in the order dated 18.08.2021 and also direction for restoration of the drain and the village pond by the Respondent No. 1. The Hon'ble Tribunal may further direct for imposing environmental compensation considering their past violations and cost of restoration.

THROUGH



RITWICK DUTTA

RAHUL CHOUDHARY

COUNSEL FOR THE APPLICANT

Place:- Delhi
Dated:- 9/02/2022

Annexure A-1



Back side drain of DSM Sugar showing press mud in the drain



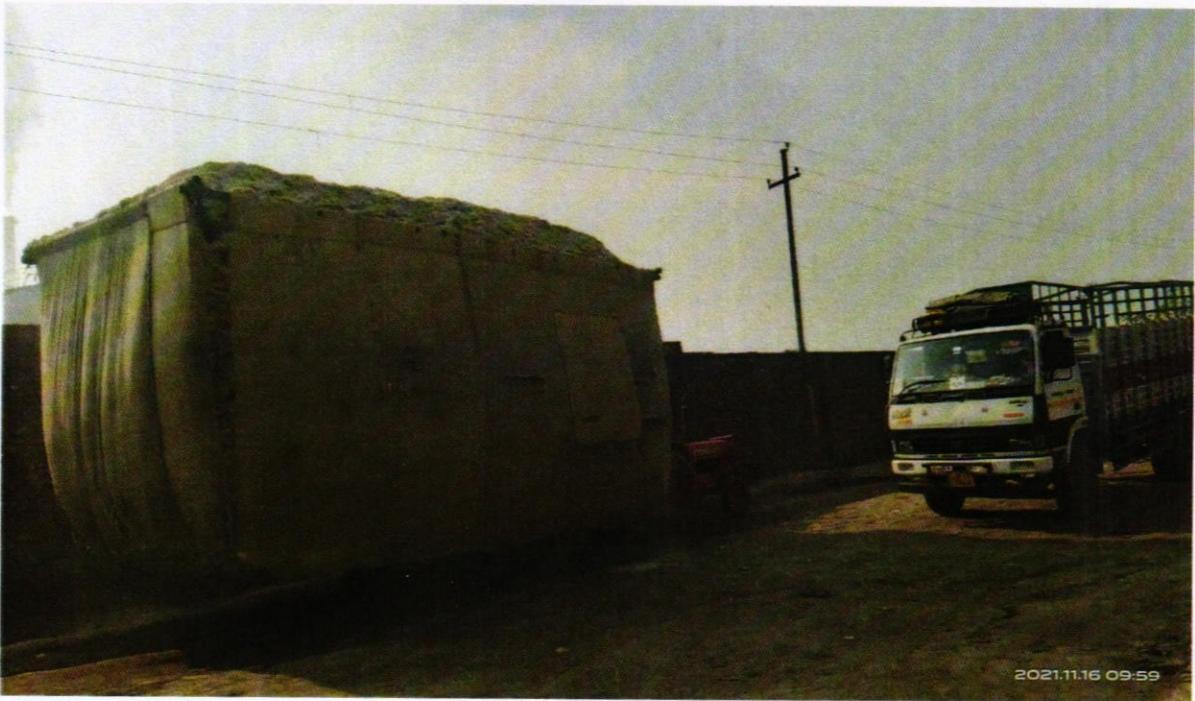
Discharge from DSM Sugar in the drain on the backside of mill

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Annexure A-2 (cont)



Bagasse storage in open causing air pollution





क्षेत्रीय कार्यालय

दूरभाष : 0131-2436493

उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड, मुजफ्फरनगर

U.P. POLLUTION CONTROL BOARD, MUZAFFARNAGAR

6-बी, नई मण्डी, मुजफ्फरनगर-251001 (उ०प्र०)

संदर्भ सं०
Ref. No.

826/2021/डी.एम. वॉर रूम शिकायत सं० जी-25/डब्लू/641

दिनांक
Dated

16-12-2021

डी०एस०एम० शुगर
मन्सूरपुर
मुजफ्फरनगर।

विषय:- डी.एम. वॉर रूम शिकायत संदर्भ सं० जी-25/डब्लू/641 द्वारा उद्योग के विरुद्ध वायु प्रदूषण की शिकायत के सम्बन्ध में।

उपरोक्त विषयक आपके उद्योग के विरुद्ध डी.एम. वॉर रूम शिकायत संदर्भ सं० जी-25/डब्लू/641 द्वारा वायु प्रदूषण के सम्बन्ध में जनशिकायत प्राप्त हुई है। शिकायतकर्ता द्वारा अवगत कराया गया है कि आपके उद्योग में खोई का भण्डारण खुले में रेलवे लाईन की ओर किया गया है जिस कारण रेलवे लाईन के आसपास के आवासीय क्षेत्र में खोई के कणों एवं उद्योग में स्थापित ब्वायलर्स की चिमनियों से जनित धुएं व राख से वायु प्रदूषण की समस्या व्याप्त है। तत्क्रम में आपको निम्नवत् निर्देशित किया जाता है :-

- 1- उद्योग की प्रक्रिया से जनित खोई का भण्डारण सुरक्षित रूप से इस प्रकार किया जाये, जिससे खोई के कण आसपास के क्षेत्र में न फैलें।
- 2- उद्योग से जनित फ्लू गैस उत्सर्जन का नियंत्रण इस प्रकार करें कि प्रत्येक दशा में उत्सर्जन मानकों के अनुरूप रहे।
- 3- उद्योग में स्थापित ब्वायलर्स पर वायु प्रदूषण नियंत्रण व्यवस्थाओं का संचालन एवं रखरखाव इस प्रकार किया जाये कि आसपास के क्षेत्र में परिवेशीय वायुगुणता मानकों के अनुरूप रहे।
- 4- उद्योग में स्थापित ब्वायलर्स से जनित राख का समुचित भण्डारण एवं निस्तारण इस प्रकार किया जाये कि आसपास के पर्यावरण एवं जनमानस पर प्रतिकूल प्रभाव न पड़े।
- 5- उद्योग द्वारा केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा प्रख्यापित चार्टर (क्रेप) के निर्देशों का पूर्णतया अनुपालन सुनिश्चित किया जाये।

अतः आपको निर्देशित किया जाता है कि उपरोक्त वर्णित बिन्दुओं पर प्रभावी कार्यवाही करते हुए एक सप्ताह के अन्दर अनुपालन आख्या प्रेषित करना सुनिश्चित करें। अन्यथा प्राविधानों के अन्तर्गत नियमानुसार उद्योग के विरुद्ध की गयी अग्रिम कार्यवाही का समस्त उत्तरदायित्व आपका स्वयं का होगा।

(अंकित सिंह)
क्षेत्रीय अधिकारी

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