

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

Original Application No. 416/2022

In the matter of:

Gunjan Mittal

...Applicant

Versus

Govt. of NCT of Delhi

...Respondents

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NDOH: 22.11.2022

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Filed by:

New Delhi:

Dated: 21.11.2022

Delhi Pollution Control Committee

(1)

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**RESPONSE ON BEHALF OF DELHI POLLUTION CONTROL
COMMITTEE (RESPONDENT NUMBER-2) IN COMPLAINT TO
THE ORDER DATED 22.09.2022.**

IT IS MOST RESPECTFULLY SHOWNETH:

Affidavit of P.S. Pankaj, presently working as Senior Environmental Engineer, Delhi Pollution Control Committee, 5th floor, ISBT Building, Kashmere Gate, New Delhi 110006 in compliance to the order dated 22.09.2022.

1. I the above-named deponent do hereby solemnly affirm and declare that I am an authorized officer of the Delhi Pollution Control Committee and competent to swear in the present affidavit on the basis of records.
2. That this Hon'ble Tribunal took up the above referred matter on 11.07.2022 and was pleased to direct the DPCC and Deputy Commissioner (Shahdara), Delhi to take action against the M/s Mittal Car Scanning, a car repairing workshop at ground floor of the building situated near Chetan Complex, Dilshad Garden, Shahdara, Delhi. The applicant is also running a boutique in the same premises.
3. That in compliance with the order dated 11.07.2022, DPCC filed an action taken report on 21.09.2022, which is available on the records of this Hon'ble Tribunal. The report of DPCC was considered by this Hon'ble Tribunal on 22.09.2022. This Hon'ble Tribunal vide order dated 22.09.2022 pleased to direct the

Government of NCT of Delhi, DPCC, Commissioner- Municipal Corporation of Delhi, District Magistrate, Shahdara to file reply/ response. DPCC was also directed to serve the notice to the project proponent.

4. That, DPCC served the notice issued by this Hon`ble Tribunal to M/s Mittal Car Scanning on 14.10.2022. Copy of the service letter is enclosed herewith as **Annexure-R-2/1**.
5. That a joint inspection of the site was carried out on 22.07.2022 by the representative of DPCC, BSES, MCD and Revenue office. Unit was engaged in the activity of car repairing without washing. Car repairs was being done manually. Unit showed expired MCD license for the car repairing activity. One Borewell was also on site. Boutique at first floor was being operated by applicant. Applicant and M/s Mittal Car Scanning are sharing Electricity supply from common meter. BSES disconnected the electricity connection during the inspection. The activity was being carried out without the CTE & CTO from DPCC. The SDM (Shahdara) has issued sealing order with regard to borewell and also imposed penalty of Rs. 50,000/- under section 5 of the Environment (Protection) Act, 1986. DPCC asked the Commissioner, MCD to take action vide letter dated 26.07.2022.
6. That, DPCC issued show cause notice for imposing Environmental Damages Compensation to "M/s Mittal Car Scanning" of Rs. 5,00,000/- for operating without consent/ registration under Section 33(A) in Water (Prevention and Control of Pollution) Act, 1974 and under Section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981. In view of disconnection of electricity and borewell, DPCC not issued direction for closure.
7. That, a letter from M/s Mittal Car Scanning was received in the office of DPCC on 05.09.2022 interalia requesting to:

"..At the outset it is submitted that no pollution of any kind is being generated in my premises. The water of borewell is being used only for domestic purposes.

Further, office of the SDM (Shahdara) has issued sealing order with regard to borewell and also imposed penalty of Rs. 50,000/-- against me under section 5 of the Environment (Protection) Act, 1986. As per legal advice received by undersigned, SDM has no power to impose penalty most particularly under the provisions of the Environment (Protection) Act, 1986.

The allegation put on me by Mrs. Gunjan Mittal are only for grabbing the land, creating nuisance and giving me mental torture. There is no pollution in my premises of any kind. This is only source of my livelihood.

Therefore I humbly request your Honour Sir, kindly look into the matter and BSES may be directed to re-connect the electricity. SDM (Shahdara) may also be directed to withdraw the penalty order.

Copy of the letter dated 05.09.2022 is annexed as ANNEXURE-R-2/2.

8. That, DPCC has also issued Show Cause Notice for imposition Environmental Damages Compensation (EDC) of Rs. 5,00,000/- on 21.09.2022.
9. That based on the series of consultations with SPCBs, different Government/ Non- government Institutions including industries and MoEF&CC, the following criteria on 'Range of Pollution Index (PI) for the purpose of categorization of industrial sectors has been finalized by Central pollution Control Board:
- Industrial Sectors having Pollution Index score of 60 and above - Red category
 - Industrial Sectors having Pollution Index score of 41 to 59 -Orange category
 - Industrial Sectors having Pollution Index score of 21 to 40 -Green category
 - Industrial Sectors having Pollution Index score incl. & upto 20 -White category

The above Categorization' is based on the relative pollution potential of the industrial sectors and grouping of the industrial sectors based on the use of raw materials, manufacturing process adopted and pollutants likely to be generated.

The categorization will be done on the basis of composite score (0-100 marks) of Pollution Index given in accordance with the following weightage.

Air Pollution Score based on parameters namely PM, CO, NOx, SOX, HMs, Benzene, Ammonia and other toxic parameters relevant to the industry.	40 Marks
Water Pollution Score based on parameters namely pH. TSS, NH-N, BOD, Phenol and other toxic pollutants relevant to the industry.	40 Marks
Hazardous wastes (land fillable, incinerable, recyclable) as generated by the industry.	20 Marks
Note:	

- Parameters to be decided on the basis of the nature of the wastes generating from the industrial sector.
- Industries having only either water pollution or air pollution, the score will be normalized wrt 100.

The newly introduced White category of industries pertains to those industrial sectors which are practically non-polluting such as manufacturing of Biscuit trays etc. from rolled PVC sheet (using automatic vacuum forming machines), Cotton and woolen hosiers making (Dry process only without any dyeing/washing operation), Electric lamp (bulb) and CFL manufacturing by assembling only, Scientific and mathematical instrument manufacturing Solar power generation through photovoltaic cell, wind power and mini hydel power (less than 25 MW). DPCC is following the criteria as prepared by Central Pollution Control Board.

10. That, the activity which was carried out on the premises, as generating hazardous waste, hence falls under Orange Category, although other source of pollution were not exist on the site.

11. That the notice for imposition of EDC for Rs 5,00,000/- was issued as per the EDC Policy adopted by DPCC in terms with EDC Policy of CPCB dated 30.03.2022. As per the policy, the formula used for calculation of EDC is as follows:

In the areas outside notified industrial/ Redevelopment Areas, Committee recommended that Environmental Compensation amount may be imposed on Lump sum basis is as under:

- Godown/ storage of plastic scrap – Rs. 1 Lakh
- Unit found operating/ sealed by other agency:
 - White category – Rs.40,000
 - Green category – Rs.2 Lakhs
 - Orange category – Rs. 5 Lakhs
 - Red/ Prohibited category – Rs. 10 Lakhs

Therefore, the EDC is calculated as 5,00,000/-.

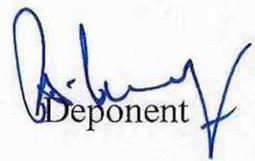
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12. In view of the above stated facts and circumstances, the applicant is not entitled to any equitable relief as it has not come to this Hon'ble Tribunal with clean hands, as she also carrying out the activity from the same premises.


Deponent

Verification

Verified at New Delhi on this ____ day of November 2022 that the contents of the above affidavit are true and correct to my knowledge and noting false has been stated therein and no material has been concealed there from.


Deponent

By speed post

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DELHI POLLUTION CONTROL COMMITTEE
DEPARTMENT OF ENVIRONMENT, (GOVT. OF NCT OF DELHI)
4th & 5th FLOOR, ISBT BUILDING, KASHMERE GATE, DELHI 110006
Visit us at <http://dpcc.delhigovt.nic.in>

No. DPCC/CMC-I/O.A. No.416/2022/1307-1308

Dated: 14.10.2022

To,

M/s Mittal Scanning,
Ground Floor 251-A,
Near Chetan Complex, Dilshad Garden,
Shahdara Delhi

Annexure-R-2/1

Subject: Services of notices to Project Proponent in O.A. no.416/2022 titled "Gunjan Mittal Vs Govt. of NCT of Delhi"-reg.

Sir/Madam,

In compliance to the order of Hon'ble NGT dated 22.09.2022, please find enclosed herewith notice to be served to you along with following documents:

1. Joint Inspection report dated 22.07.2022.
2. Letter to Commissioner MCD dated 26.07.2022
3. Show Cause Notice for imposition for Environmental Damages Compensation dated 21.09.2022.
4. Affidavit filed by Delhi Pollution Control committee dated 21.09.2022.
5. Order of Hon'ble NGT dated 22.09.2022.

You are requested to take necessary action as per the direction of Hon'ble NGT.

Yours Sincerely,


Dr. Siddhartha Gautam,
EE, CMC-I

Received

9873370404

Saurav

Copy to:

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21/10/22

1. In-charge, Legal Cell

Annexure R-2/2

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Date: 05.09.2022

To,

Sr. Env. Engineer (CMC-I),
Delhi Pollution Control Committee
ISBT Building, K. Gate, Delhi-6

1370/CMC-I
7/9/22

Delhi Pollution Control Committee
Date: 05/09/2022
05 SEP 2022
CMC-I
Joint Forwarding Officer

Subject:- **M/s Mittal Car Scanning near Chetak complex Dilshad Garden, Shahdara Delhi-95.**

Sir,

With due respect it is submitted that, I, Harish Mittal running a car repair workshop in the name of Mittal Car Scanning at 251-A, ground floor near Chetak Complex, Dilshad Garden, Shahdara, Delhi-1100095 manually. No machine of any kind is being used.

Some days ago, some officials had visited my site in connection with some NGT matter. Since visit, BSES-Yamuna Power Ltd., officials disconnected electricity connection for my premises, without assigning any reason. This may be restored at the earliest.

At the outset it is submitted that no pollution of any kind is being generated in my premises. The water of borewell is being used only for domestic purposes.

Further, office of the SDM (Shahdara) has issued sealing order with regard to borewell and also imposed penalty of Rs. 50,000/-- against me under section 5 of the Environment (Protection) Act, 1986. As per legal advice received by undersigned, SDM has no power to impose penalty most particularly under the provisions of the Environment (Protection) Act, 1986.

The allegations put on me by Mrs. Gunjan Mittal are only for grabbing the land, creating nuisance and giving me mental torture. There is no pollution in my premises of any kind. This is only source of my livelihood.

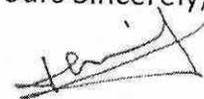
Therefore I humbly request your Honour Sir, kindly to look into the matter and BSES may be directed to re-connect the electricity. SDM (Shahdara) may also be directed to withdraw the penalty order.

Thanking you,

Harish Mittal

Sl:13/9/2022
Mr. Amit Kumar

Yours Sincerely,



Harish Mittal
9873370404