

IN THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA No.840/2019

IN THE MATTER OF :

Ayush Garg.

....Applicant

Versus

Union of India and others

....Respondents

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Report on Behalf of Haryana State Pollution Control Board,

In compliance of Orders dated 10.08.2020

MOST RESPECTFULLY SHOWETH

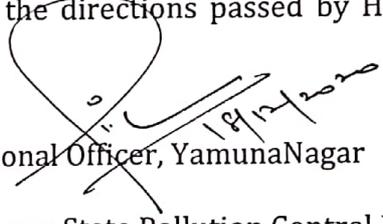
The Hon'ble NGT vide orders dated 10.08.2020 passed the following directions

"4. In view of the above, we direct the District Magistrate, Yamunanagar and the State PCB to ensure that unless a valid Environmental Clearance (EC) and other statutory clearances are available, the unit may not be allowed to function. The State PCB will be nodal agency for compliance. State PCB may also assess and recover compensation for illegal operation of the unit on 'Polluter

Pays' principle, following due process of law. Compliance report be filed before the next date." The detailed orders dated 10.08.2020 is enclosed as per **Annexure-R1**.

That the Unit M/s Om Chem Village Kurali, Tehsil Bilaspur , Yamuna Nagar has been closed by the Board vide order dated 07.08.2020 and same was complied on dated 08.08.2020. The Environmental compensation of Rs 49,40,000/- (Forty Nine Lakh forty thousand only) has been imposed on the unit vide order dated 24.11.2020. The copy of the order dated 24.11.2020 is enclosed as per **Annexure-R2**.

The Report is submitted accordingly for kind consideration please. It is undertaken to comply with the directions passed by Hon'ble Tribunal.


Regional Officer, YamunaNagar

Haryana State Pollution Control Board

Place : Yamuna Nagar

Date : 18.12.2020.

Item Nos. 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 840/2019

(With report dated 27.12.2019)

Ayush Garg

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 10.08.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant(s): Mr. Rahul Choudhary, Advocate

Respondent(s): Mr. Rahul Khurana, Advocate for HSPCB & SEIAA, Haryana

ORDER

1. A factual and action taken report was sought from a joint Committee of Haryana State Pollution Control Board (HSPCB) and the State Environment Impact Assessment Authority (SEIAA), Haryana with reference to the allegation of illegal operation of manufacturing unit by M/s Om Chem at Village Kurali, Sabapur Road, Tehsil Bilaspur, District Yamunanagar, Haryana. According to the Applicant, formaldehyde is a hazardous chemical which was being used releasing Volatile Organic Compounds (VOCs) in violation of Hazardous Waste (Management and Transboundary Movement) Rules, 2016.

2. The matter was considered on 28.11.2019 in light of the report filed by the State Environment Impact Assessment Authority (SEIAA), Haryana on 15.10.2019. It was observed:

“2. Accordingly, a report has been filed by SEIAA, Haryana on 15.10.2019 to the effect that there is no Environmental Clearance and thus operation of the unit is illegal. Notice for revocation of ‘Consent to Establish’ was issued by the SPCB but the same was stayed on 13.09.2019 by the Appellate Authority.

*3. Without commenting upon the issue of proceedings before the Appellate Authority on the subject of ‘Consent to Establish’, the action could certainly be taken for absence of EC by SEIAA under the Environment (Protection) Act, 1986. Regional Officer of MoEF&CC at Chandigarh or SEIAA or CPCB can certainly exercise jurisdiction under Section 5 of the Environment (Protection) Act, 1986 **for stopping illegal operation of manufacturing activities in violation of requirement of EC forthwith.** Let such action be taken in accordance with law. Let SEIAA, Haryana furnish an action taken report in the matter within one month after coordinating with concerned authorities by e-mail at judicial-ngt@gov.in.”*

3. In view of the above, the SEIAA filed its report dated 27.12.2019 to the effect that a decision was taken to stop the activities of the unit. However, there was nothing to show that actual stopping of such activities was effective. The applicant has filed an application on 03.08.2020 to the effect that unit was still functioning. During the hearing, learned Counsel for the State Pollution Control Board states that on 07.08.2020 the functioning of the unit has been stopped.

4. In view of the above, we direct the District Magistrate, Yamunanagar and the State PCB to ensure that unless a valid Environmental Clearance (EC) and other statutory clearances are available, the unit may not be allowed to function. The State PCB will be nodal agency for compliance. State PCB may also assess and recover compensation for illegal operation of the unit on ‘Polluter Pays’ principle, following due process of law. Compliance report be filed before the next

date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List again on 11.11.2020.

A copy of this order be sent to the State PCB and the District Magistrate, Yamunanagar, by email.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

August 10, 2020
Original Application No. 840/2019
SN

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Ph- 0172 -2577870-73 Fax No. 2581201
E-mail: hspcbho@gmail.com

Order

Whereas, Hon'ble National Green Tribunal (NGT) has issued directions to impose the penalty on the non-complying polluting units and to levy compensation on the Principles "Polluter Pays" to recover the Environment compensation for the restoration of the Environment damages caused.

Whereas, the Hon'ble NGT in the matter of Paryavaran Surksha Samiti & Ors. Vs Union of India & Parveen Kakkar & Ors. Vs MOEF & Ors. it was held that: "11. Needless to say that it will be open to the SPCBs/Committees and CPCB to take coercive measure including recovery of compensation for the damage to the environment on " Polluter Pays" as well as also to direct taking of such precautionary measure as may be...."

Whereas in 63rd conference of Chairman and Member Secretary of PCBs/Committees held on 18.03.2019 it was decided that SPCBs/PCCs may frame their guidelines on environmental compensation based on CPCB's report circulated in the agenda of the said meeting and to provide their inputs environmental compensation report.

Whereas the matter regarding levy of compensation on the polluting units was examined by the technical committee by the Board which recommended that the report of in-house committee of CPCB on methodology and guideline for assessing the environment compensation and utilizing of the same as providing in the agenda note of the 63rd conference of Chairman and Member Secretary of PCBs/Committees held on 18.03.2019.

Whereas, the Board has decided to adopt the methodology suggested by CPCB for assessment, imposing, collection and utilization environment compensation from the polluting units in the state of Haryana vide orders dated 29.04.2019.

Whereas, the Board constituted environment assessment compensation committee on 06.05.2019 to assess the environment compensation of the units found operating in violation of the provisions of the environmental acts.

Whereas, the Regional Officer, Yamuna Nagar vide his letter No. HSPCB/YR/2020/8441 dated 26.10.2020 informed that the unit M/s Om Chem, Village Kurali Sabapur Road, Bilaspur, Distt. Yamuna Nagar was found violating the provisions of EIA Notification 2006 by establishing and operating without obtaining environment clearance.

Whereas, the environment compensation assessment committee examined the case of the unit M/s Om Chem, Village Kurali Sabapur Road, Bilaspur, Distt. Yamuna Nagar in its meeting held on 23.11.2020 and after

deliberations submitted its report that environment compensation of Rs. 49,40,000/- (Forty Nine lakh forty thousand only) be levied on the unit for violating the provisions of EIA Notification 2006 by establishing and operating without obtaining environment clearance.

Whereas, after consideration of the minutes of the meeting of the environment assessment committee, submitted on 23.11.2020, Environment compensation of Rs. 49,40,000/- (Forty Nine lakh forty thousand only) is levied on the unit M/s Om Chem, Village Kurali Sabapur Road, Bilaspur, Distt.Yamuna Nagar on account of the damage caused by the unit for violating the provisions of EIA Notification 2006 by establishing and operating without obtaining environment clearance.

M/s Om Chem, Village Kurali Sabapur Road, Bilaspur, Distt.Yamuna Nagar is hereby directed to deposit Rs. 49,40,000/- (Forty Nine lakh forty thousand only) with the Haryana State Pollution Control Board as Environment compensation within 15 days in INDUSIND Bank, Sector-9, Panchkula, Saving Bank account No. 100053543757, IFSC Code INDB0000164, to avoid further legal action.

**Dated Panchkula the,
Ashok Kheterpal**

Sh.

**24th November, 2020
Chairman, HSPCB**

**Endst. No. HSPCB/YNR/2020/
Date:**

A copy of the above is forwarded to the following for information and necessary action please:

1. M/s Om Chem, Village Kurali Sabapur Road, Bilaspur, Distt.Yamuna Nagar.
2. PS to Chairman HSPCB.
3. PA to Member Secretary, HSPCB.
4. Sr. Account Officer, HSPCB.
 1. Regional Officer, Yamuna Nagar, HSPCB.

Signed by Naveen Gulia
Date: 27-11-2020 16:13:04
Reason: Approved

Sr. Environmental

**Engineer (HQ)
For Chairman**