

BEFORE THE NATIONAL GREEN TRIBUNAL, NEW DELHI

O.A. NO. 214 OF 2020

IN THE MATTER OF:
DR. SHARAD GUPTA

.....APPLICANT

VERSUS

CENTRAL POLLUTION CONTROL BOARD & ORS.

.....RESPONDENTS

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NEW DELHI

DATED 25, 01, 2021


(PRADEEP MISRA & DALEEP K. DHYANI)

Counsel for U.P. Pollution Control Board,
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Supreme Court of India,
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REPLY ON BEHALF OF U.P. POLLUTION CONTROL BOARD

I, R.K. Singh, S/o. Shri R.K. Singh, aged about 57 years, Chief Environmental Officer, U.P. Pollution Control Board, Lucknow, U.P. at present at New Delhi, do hereby solemnly affirm and declare as under:

1. That I in the abovenoted capacity am well conversant with the facts and record of the present case, hence am competent to swear this affidavit.
2. That I have read the original application and have understood the same fully.
3. That at the outset of this affidavit I deny each and every averment made in the said application save and except those which are admittedly by me specifically hereinafter.
4. That CPCB has made a categorization of various industrial sector into Red, Orange, Green and White categories vide order dated 29.02.2016. However, the said categorization was not complete and all the industrial sectors were not included. Thus, CPCB has observed in the said order that the State Pollution Control Board can categorize those industrial sectors



which do not fall in the said list of the unit. The relevant portion of the said direction is in Clause VIII at Page 37 of paperbook which reads as follows:

“VIII. The industrial sector which doesn't fall under any of the above four categories (Red, Orange, Green and White), decision with regard to its categorization will be taken at the level of concerned SPCB/PCC by a committee headed by the Member Secretary/SPCB/PCC and comprising of two senior cadre Engineers/Scientists of the SPCB/PCC in accordance with the scoring-criteria specified in this document.”

5. That at Serial No. 26 of the list of Green Category industries following entry has been made:

| | | | |
|-----|---|-----|---|
| 26. | Leather foot wear and leather products (excluding tanning and hide processing except cottage scale) | G-G | Minor fumes due to use of adhesives/gums. |
|-----|---|-----|---|

6. That pursuant to the directions of CPCB the U.P. Pollution Control Board has included various industrial sectors in green and white categories which were not included in the list issued by CPCB vide order dated 09.01.2019. Thus, in the list of white category following entry has been made.

| | | |
|-----|---|---|
| 18. | Finished leather goods, conversion of finished without wet process. | W |
|-----|---|---|

7. That the abovenoted Petition came up for hearing on 05.10.2020 before this Hon'ble Tribunal when following order was passed:



“1. Grievance in this application is against the order issued by the Uttar Pradesh Pollution Control Board (UPPCB) on 09.01.2019 whereby a list of Green category-28, industrial sectors and White category-156, industrial sectors has been issued. It is particularly pointed out that the leather industry (leather footwear and leather products, excluding Tanning and Hide processing, except cottage scale) has been wrongly put in 'White Category'.

2. The applicant points out that the list so issued is in conflict with the order of the Central Pollution Control Board (CPCB). The UPPCB cannot relax the norms for classification though it can make it more stringent.

3. This Tribunal, vide order dated 22.1.2020 in Appeal No. 11/2019 (SZ), Kerala State Pollution Control Board v. Appellate Authority and Ors., held that the State PCB is bound by the categorisation by the CPCB except for making the norms more stringent.

4. In view of above, let the CPCB and the State PCB file their response before the next date by email. The UPPCB may not issue any consent in the meanwhile, on the basis of the impugned list to the extent it is in conflict with the list issued by the CPCB.”

8. That the U.P. Pollution Control Board again to examine the matter has made a Committee vide O.M. dated 20.11.2020 of the following officers:

1. Shri P.K. Agrawal, Chief Environmental Officer (Circle-5).
2. Shri R.K. Singh, Chief Environmental Officer (Circle-4).
3. Shri Mahendra Nath, Law Officer-I.



True copy of O.M. dated 20.11.2020 is being enclosed herewith and marked as **Annexure-1**.

9. That the said Committee examined the matter and again clarified some of the entries vide order dated 08.01.2021 including Entry No. 18 which reads as follows:

| S. No. | Industry Sector (Old) | Industry Sector (New) | Tentative Category. |
|--------|---|--|---------------------|
| 18. | Finished leather goods, conversion of finished without wet process. | Leather footwear and leather products (excluding tanning, wet process and use of adhesive) | White |

True copy of the said order is being enclosed herewith and marked as **Annexure-2**.

10. That the U.P. Pollution Control Board vide letter dated 08.01.2020 has informed the Central Pollution Control Board also regarding the said entry.

11. That it is submitted that the U.P. Pollution Control Board has not deleted the Entry 26 from Green Category List which includes the use of adhesive and thus falls in green category whereas Entry 18 in the list of white category issued by UPPCB, is the industries manufacturing finished leather product without using adhesive and wet process like belt and purse manufacturing units.

12. That thus there is no contradiction and the U.P. Pollution Control Board has not diluted the entries made by the CPCB and has only added those process which are not included in the list of CPCB.



13. That it is further submitted that not only UPPCB but various State Boards in view of liberty granted by CPCB has categorize various industrial sectors which were not included in the list of CPCB.

14. That thus the allegations made in O.A. under reply are without any substance and the Original Application is liable to be dismissed.


DEPONENT

VERIFICATION:

I, the abovenamed deponent, do hereby verify that the contents of above affidavit are true to my knowledge derived from official record. No part of the same is false and nothing has been concealed therefrom.

VERIFIED ON THIS THE 22nd DAY OF JANUARY, 2021 AT NEW DELHI.


DEPONENT



ATTESTED

RENU BALA, REG No 16727
NOTARY DELHI
GOVERNMENT OF INDIA

22 JAN 2021

Annexure - I

उ०प्र० प्रदूषण नियंत्रण बोर्ड
टी.सी.-12वी, विभूति खण्ड, गोमती नगर
लखनऊ

पत्रांक- 634205

ए-4 N.G.T/N-69/2020

दिनांक- 20.11.2020

कार्यालय आदेश

केन्द्रीय प्रदूषण नियंत्रण बोर्ड द्वारा जल(प्रदूषण निवारण एवं नियंत्रण) अधिनियम, 1974 एवं वायु(प्रदूषण निवारण एवं नियंत्रण) अधिनियम, 1981 की धारा-18(1) बी के अंतर्गत उद्योगों को स्कोरिंग क्राइटेरिया के आधार पर छूटे हुये उद्योगों को सूची में हरे एवं सफेद औद्योगिक सेक्टर के छूटे हुये उद्योगों को सम्मिलित करने के निर्देश दिये गये थे, जिसके आधार पर राज्य बोर्ड द्वारा गठित समिति द्वारा परीक्षण करते हुये, हरे एवं सफेद श्रेणी के उद्योगों में छूटे हुये उद्योग को सम्मिलित किये गये थे। राज्य बोर्ड द्वारा कार्यालय ज्ञाप संख्या-जी 29267/सी-4/सा-62/2019 दिनांक 09.01.2019 द्वारा हरे एवं सफेद श्रेणी के उद्योगों में छूटे हुये उद्योगों को सम्मिलित करते हुये आदेश निर्गत किये गये थे। माननीय राष्ट्रीय हरित अधिकरण ने दायर ओ०ए० संख्या-214/2020 डॉ० शरद गुप्ता बनाम केन्द्रीय प्रदूषण नियंत्रण बोर्ड व अन्य में प्रसंगत प्रकरण के संबंध में चुनौती दी गयी, जिसमें पारित आदेश दिनांक 05.10.2020 के अनुपालन में राज्य बोर्ड द्वारा निर्गत कार्यालय आदेश का पुनःपरीक्षण किया जाना प्रस्तावित है। प्रसंगत प्रकरण पर पूर्व में गठित समिति द्वारा किये गये निर्णय एवं तकनीकी दृष्टिकोण से जांच तथा यथावश्यक पुनः परीक्षण हेतु निम्नलिखित अधिकारियों की समिति गठित की जाती है:-

1. श्री पी०के०अग्रवाल मुख्य पर्यावरण अधिकारी (वृत्त-5)
2. श्री आर०के० सिंह मुख्य पर्यावरण अधिकारी (वृत्त-4)
3. श्री महेन्द्र नाथ, विधि अधिकारी(प्रथम)

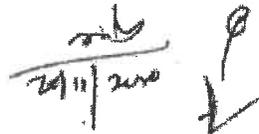
उपरोक्त के परिप्रेक्ष्य में समिति को निर्देशित किया जाता है कि प्रकरण से संबंधित तकनीकी आख्या एवं संस्तुति 01 सप्ताह के अन्दर अधोहस्ताक्षरी को प्रस्तुत करना सुनिश्चित करें।


(आशीष तिवारी)
सदस्य सचिव

प्रतिलिपि-निम्नलिखित को समयबद्ध कार्यवाही पूर्ण करने हेतु प्रेषित-

1. श्री पी०के०अग्रवाल मुख्य पर्यावरण अधिकारी (वृत्त-5)
2. श्री आर०के० सिंह मुख्य पर्यावरण अधिकारी (वृत्त-4)
3. श्री महेन्द्र नाथ, विधि अधिकारी(प्रथम)


सदस्य सचिव


20/11/2020


TRUE COPY

ANNEXURE 1

U.P. POLLUTION CONTROL BOARD
T.C.-12V, VIBHUTI KHAND, GOMTI NAGAR,
LUCKNOW

Letter G34205 C-4 NGT/No. – 69/2020

Dated 20.11.2020

OFFICE ORDER

Central Pollution Control Board under Section 18(1)b of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 has given directions to include the left over industrial sectors in the list of green and white industrial sectors on the basis of scoring criteria. On that basis the Committee constituted by State Board after examining has included left over industries in the green and white category. State Board vide Office Memo No. G29267/C-4/G-62/2009 dated 09.01.2019 has issued orders for inclusion of left over industries in white and green category which has been challenged before Hon'ble National Green Tribunal in O.A. No. 214 of 2020 Dr. Sharad Gupta Vs. Central Pollution Control Board & Ors. In compliance of order dated 05.10.2020 passed therein it is proposed to reexamine the office order issued by the State Board. In this case for reexamination as required of the decision taken by the earlier committee and its technical view the Committee of the following officers is being constituted.

1. Shri P.K. Agrawal, Chief Environmental Officer (Circle-5).
2. Shri R.K. Singh, Chief Environmental Officer (Circle-4).
3. Shri Mahendra Nath, Law Officer (First)

In view of the above Committee is directed to ensure to submit its technical report within a week to the undersigned.

7

Sd/- Illegible
(Ashish Tiwari)
Member Secretary

Copy to the following for taking action in a time bound manner:

1. Shri P.K. Agrawal, Chief Environmental Officer (Circle-5)
2. Shri R.K. Singh Chief Environmental Officer (Circle-4)
3. Shri Mahendra Nath, Law Officer (First)

Sd/- Illegible
(Ashish Tiwari)
Member Secretary



//ENGLISH TRANSLATION//

Annexure II

U.P. POLLUTION CONTROL BOARD,
TC-12V, VIBHUTI KHAND, GOMTI NAGAR,
LUCKNOW

Ref. No. 15707 IC-4/SA-62/2021

Date: 21/2/2021

Pursuant to the modified direction under section-18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 regarding harmonization of classification of Industrial sectors under RED/ORANGE/ GREEN/ WHITE category vide letter no. B-29012/ESS(CPA)/2015-16 dated 07-03-2016 circulated final report on revised categorization of industrial sectors under RED/ORANGE/GREEN/ WHITE has been evolved on the basis of range of Pollution Index. '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.

Further, In compliance to the Hon'ble NGT order dated 05.10.2020 in the matter of OA no.-214/2020 Dr. Sharad Gupta Vs Centre Pollution Control Board and others. A dispute was raised in White category at Serial No.- 18 uploaded on the Board's website vide this office letter no.- G29267/C-4/SA-62/2019 dated 09.01.2019. The white category list of left out sectors of CPCB list, prepared by UPPCB was re-examined and following clarification has been made in the previous list at different Serial Nos. which are as under:-

| S.No | Industry Sector (Old) | Industry Sector (New) | Tentative Category |
|------|---|---|--------------------|
| 7. | Biscuits, Pastries, Cakes, Confectionery, Bread, Bakery upto 100 kg/day | Biscuits, Pastries, Cakes, Confectionery, Bread, Bakery upto 100 kg/day (Using LPG/Electric oven) | White |
| 8. | Black smithy shop | Black smithy shop (Using LPG only) | White |
| 10. | Candle Manufacture | Candle Manufacture (Using LPG only) | White |
| 13. | Dairy farming (Rural Area focal point periphery of 1/2 K.M.) | Dairy farming (Less than 15 Milching animals) | White |
| 18. | Finished leather goods, conversion of finished without wet process. | Leather footwear and leather products (excluding tanning, wet process and use of adhesive) | White |
| 118. | Wheat and paddy threshers | Wheat and Paddy threshers (seasonal use in harvesting field only) | White |

Note- All the conditions mentioned vide earlier office order dated G29267/C-4/SA-62/2019 dated 09.01.2019 will remain unchanged.


(Ashish Tiwari)
Member Secretary


TRUE COPY

ANNEXURE-2.

U.P. POLLUTION CONTROL BOARD,
TC-12V, VIBHUTI KHAND, GOMTI NAGAR,
LUCKNOW

Ref. No. H57070/C-4/SA-62/2021

Dated: 08.01.2021

Pursuant to the modified direction under Section-18(1)(b) of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981 regarding harmonization of classification of Industrial sectors under RED/ORANGE/GREEN/WHITE category vide letter no. B-29012/ESS(CPA)/2015-16 dated 07.03.2016 circulated final report on revised categorization of industrial sectors under RED/ORANGE/GREEN/WHITE has been evolved on the basis of range of Pollution Index. '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.

Further, in compliance to the Hon'ble NGT order dated 05.10.2020 in the matter of OA No.214/2020 Dr. Sharad Gupta Vs. Centre Pollution Control Board and others. A dispute was raised in White category at Serial No.- 18 uploaded on the Board's website vide this office letter no.- G29267/C-4/SA-62/2019 dated 09.01.2019. The white category list of left out sectors of CPCB list, prepared by UPPCB was re-examined and following clarification has been made in the previous list at different Serial Nos. which are as under: -

| S. No. | Industry Sector (Old) | Industry Sector (New) | Tentative Category |
|--------|---|---|--------------------|
| 7. | Biscuits, Pastries, Cakes, Confectionery, Bread, Bakery upto 100 kg/day | Biscuits, Pastries, Cakes, Confectionery, Bread, Bakery | White |

| | | | |
|------|--|--|-------|
| | | upto 100 kg/day (Using LPG/Electricoven) | |
| 8. | Black smithy shop | Black smith shop (Using LPG only) | White |
| 10. | Candle Manufacture | Candle Manufacture (Using LPG only) | White |
| 13. | Dairy farming (Rural) Area focal point periphery of ½ K.M.) | Dairy farming (Less than 15 Milching animals) | White |
| 18. | Finished leather goods, conversion of finished without wet process. | Leather footwear and leather products (excluding tanning, wet process and use of adhesive) | White |
| 118. | Wheat and paddy threshers | wheat and Paddy threshers (seasonal use in harvesting filed only) | White |

Note:- All the conditions mentioned vide earlier office order dated G29267/C-4/SA-62/2019 dated 09.01.2019 will remain unchanged.

(Ashish Tiwari)
Member Secretary



// TRUE COPY //

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1/25/2021

Yahoo Mail - O A No. 214 of 2020 Dr. Sharad Gupta Vs CPCB

O A No. 214 of 2020 Dr. Sharad Gupta Vs CPCB

From: Pradeep Misra (pradeepmisra@yahoo.com)

To: abhinav.shrivastava@gslc.in

Date: Monday, January 25, 2021, 12:15 PM GMT+5:30

Sir,

Please find herewith enclosed. Reply affidavit on behalf of UPPCB in the matter of O A No. 214 of 2020 Dr. Sharad Gupta Vs CPCB.

With Regards,

(PRADEEP MISRA)



SKM_28721012500060-rotated.pdf
622.8kB