

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

Original Application No. 390 of 2019

Escon Arena Apartment Owners Association

Applicant (s).....

Versus

Punjab Pollution Control Board & another

Respondent (s).....

Report by way of affidavit of Mrs. Vini Mahajan, Chief
Secretary, Government of Punjab, in compliance of order dated
25.09.2019.

**Inquiry Report in compliance of order dated 25.9.2019 passed by the Hon'ble
National Green Tribunal in O.A. No. 390 of 2019**

I, the above-named deponent, do hereby solemnly affirm and declare
as under:

1. That the Hon'ble Tribunal after submission of a report dated 7/6/2019 by the Punjab Pollution Control Board, in the above-mentioned case, was pleased to pass order dated 25/9/2019, the operative part of which is reproduced herein below:

4. The above narration shows that the industry had been functioning for 28 years without consent to operate and without due regard to such illegality and also without considering the siting criteria and the master plan, further consent to operate has been given for which there is no explanation. Inference of collusion of concerned officers is not made out.



5. *In view of above, we direct the Chief Secretary, Punjab, to look into the matter and take remedial action. The State PCB may initiate action for stopping illegal activity and recovering compensation on Polluter Pays principle and furnish a report to this Tribunal and the Chief Secretary.*
6. *The Chief Secretary may look into the possible collusion of the concerned officer in permitting illegality and furnish an action taken report before this Tribunal before the next date by e-mail at judicial-ngt@gov.in*
2. That the deponent has taken the charge of the post of Chief Secretary, Punjab on the 26th of June, 2020 and thereafter, the order dated 25.9.2019, was brought to my notice, having been passed by the Hon'ble National Green Tribunal in the above noted case. Accordingly, the deponent proceeded to conduct an enquiry in the background of the order dated 25.9.2019.
3. In the background of the case, it is observed that my predecessor, in compliance with the order dated 25.9.2019 had chaired a meeting on 18.6.2020 through Video Conferencing, in order to furnish an action taken report before the National Green Tribunal. The minutes of the meeting held on 18.6.2020 are enclosed herewith as **Annexure-A**.
4. That continuing with the proceedings initiated by my predecessor, to comply with the directions dated 25.09.2019, the matter was examined with respect to the Punjab Pollution Control Board, the Department of Housing and Urban Development, the Department of Industries & Commerce and the Department of Local Government. The facts of the case on the basis of the information furnished by the departments is summarized herein below:

A) Punjab Pollution Control Board:

a. As far as the site of the industrial unit is concerned, it is stated that the industrial unit in question came into existence in the year 1986, in the revenue estate of Village Nagla (outside the Lal Lakir of Village Nagla), Tehsil Dera Bassi. At that time, no specific guidelines were framed by the Board/Govt. for the establishment of such units. Therefore, NOC with respect to pollution, was granted to the industrial unit on 15.09.1986 by the Punjab Pollution Control Board. At that time, Zirakpur was a small village, which was later on declared and notified as a Municipal area and Municipal Council, Zirakpur came into existence in the year 2001, nearly 15 years after the establishment of the industrial unit. Even at that point of time, Village Nagla was outside the Municipal limits of Zirakpur and there was no habitation around the site of the industry. After the forming of the Municipal Council of Zirakpur, a lot of construction relating to housing projects started in the area. Subsequently, the Master Plan of Zirakpur was notified on 13.11.2009 by the Department of Town and Country Planning, wherein the area of Village Nagla, wherein the industry is situated, was demarcated as a residential zone. The industry being an existing unit, was spot zoned in the revised master plan of Zirakpur by the District Town Planner, SAS Nagar. Therefore, no illegality is noted, with respect to the operation of the industry, in terms of its location/siting.

 b. Further, it is stated that in order to resolve issues regarding the establishment of residential projects in the vicinity of industrial units/industrial areas and to frame consolidated guidelines, it was notified on 25.07.2008 by the Dept. of Science, Technology and

Environment, Govt. of Punjab, that in case of residential projects that are established within 100 meters from an air polluting industry, a minimum buffer of 15 meters of a green belt of broad leaf trees, from the boundary of the industry, shall be provided by the polluting industry. Thereafter, the aforementioned notification dated 25.07.2008 was partially amended by the Govt. vide another notification dated 30.10.2009 as under:

“The Master Plan is the final legal solution to planned development and hence the master plans be prepared in a time bound manner on priority. Where statutory master plan has been notified under the Punjab Regional and Town Planning and Development Act, 1995 (Amended) 2006, mixed land use or any other development/construction which come up as per the earmarked zone, in case of new residential, commercial, there is no need to keep any additional distance from the existing industry from the environment point of view because these factors have already been considered while earmarking the use of land for different categories in the master plan, as per Notification No. 6312 dated 11th August, 2009 issued by Department of Housing & Urban Development.”

c. As far as the residential project of 'Escon Arena' is concerned, the following facts are incorporated:

-  (i) The group housing project namely 'Escon Arena' developed by M/s Malwa Project Pvt. Ltd. at Village Nagla, Zirakpur was established in the year 2013, and the Board had granted a

consent to establish to the project proponent, situated in the residential zone. As the group housing project was at a distance of approximately 400 meters from the industrial unit i.e. M/s Ajay Gelatine Pvt. Ltd., no condition was imposed on the group housing project for providing a green buffer of 15 meters towards the industry. Moreover, the industry in question was spot zoned in the revised Master Plan of Zirakpur and a buffer green belt of 15 meters around the industry had been decided to be provided by the Dept. of Town and Country Planning. Further, while framing the Master Plan of Zirakpur (2008-2031), various environmental aspects had been duly considered. The bye-laws of the master plan of Zirakpur (2008-2031), provide as under:

“Minimum buffer of 15 meters green belt of broad leaf trees should be provided around the boundary of village abadies falling in industrial zone of Master Plan. A buffer strip of 15 meters of broad leaf trees shall also be provided between residential areas and industries falling in industrial use of Master Plan, boundaries of which are located within 100 m from the boundary of such areas. It is clarified that 15 meters buffer shall be provided by the owner of the project who comes later.”

- (ii) In view of the above facts, neither the industrial unit (M/s Ajay Gelatine Pvt. Ltd.) nor the group housing project (Escon Arena) was required to leave a 15 meters buffer of green belt as the



distance between the industrial unit and the group housing project was more than 100 meters.

- d. Regarding the pollution control measures to be taken by the industry, the Board regularly kept on monitoring the functioning of the industry and pursued the industry to take appropriate pollution control measures through issuing notices and conducting regular visits. On the basis of a visit and inspection of the unit carried out in the month of May, 2018, the industry was directed u/s 33-A of the Water (Prevention and Control of Pollution) Act, 1974 and u/s 31-A of the Air (Prevention and Control of Pollution) Act, 1981 on 10.07.2018, not to operate its unit, without providing for arrangements for the disposal of treated trade effluent, as well as without obtaining the consent to operate of the Board. However, during a visit to the industrial unit on 12.10.2018, the Board found the industry to be in operation, without operating its Effluent Treatment Plant (ETP)/Air Pollution Control Device (APCD), in violation of the directions issued by the Board. The industry had applied for a consent to operate that was refused on 15.11.2018. Simultaneously, the industry was directed to close down its operation and PSPCL authorities were also directed to disconnect the electric connection of the industry.
- e. In view of the violations committed by the industry, the Board had issued directions u/s 33-A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31-A of the Air (Prevention & Control of Pollution) Act, 1981 to Punjab State Power Corporation Ltd.



authorities to disconnect the supply of electricity available to the industry.

- f. Thereafter, the industry was granted a consent to operate on 28.01.2019 after it installed the necessary effluent treatment plant and air pollution control device, as well as made arrangements for the disposal of the treated effluent onto land for plantation/irrigation. The effluent/stack emission sampling was also carried out, which revealed that the industry was achieving effluent/stack emission targets. However, to control the issue of foul odour, the industry was asked by the Board, vide letter dated 29.01.2020 to take requisite remedial measures.
- g. As the industry had violated the directions of the Board from 10.07.2018 to 15.11.2018, the Board had imposed and recovered an environmental compensation amounting to Rs.5,85,000/-, in accordance with the formula evoked by the Central Pollution Control Board and adopted by the Punjab Pollution Control Board.
- h. Though the industrial unit remained in operation for many years without the requisite consent of the Board, the Board kept on pursuing the industry through notices/issuing directions and inspections to ensure the compliance of environmental laws. At the time of granting consent to the industry on 28.01.2019, the consent fee was deposited by the industry for the period the unit remained in operation without the consent of the Board. The industry has deposited an amount of Rs. 5,85,000 on 11.03.2020 against environmental compensation in compliance of the direction of the Board.
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B) Department of Local Government

As per the report submitted by the Town Planner, Department of Local Government, Punjab vide letter dated 02.09.2020, the following has been stated:

- i) The report of the Municipal Council, Zirakpur, received vide letter dated 31.08.2020 reveals that the building plan of Escon Arena project was approved by the Municipal Council, falling under the revenue estate of Village Singhpura vide its letter no. 1315 dated 06.12.2012. At that time, there was no provision of obtaining Change of Land Use (CLU) under the Local Government. No record regarding correspondence with PPCB in this regard is available with the Municipal Council. However, it was informed that as per the provisions of the Master Plan of Zirakpur, 2011, a buffer strip of 15 meters of broad leaf trees shall also be provided between residential areas and industries falling in the industrial use of master plan, boundaries of which are located within 100 meters from the boundaries of such areas.
- ii) The Escon Arena project was located at a distance of 400 meters from the industry M/s Ajay Gelatine. Thus, as per the conditions of Master Plan, there is no requirement for providing buffer strip in the project.
- iii) It is also pertinent to mention that at the time of approval of the building plan of Escon Arena, the industry M/s Ajay Gelatine was part of the revenue estate of Village Nagla, but village Nagla was located outside the limits of the Municipal Council. This industry was included in the municipal limits during the year 2016. At the time of approval of the building plan, the site of Escon Arena project fell under the residential zone, as per the Master Plan of Zirakpur, notified by the Dept. of Housing and Urban Development, Govt. of Punjab, and there was no provision of buffer zone around the area.



Accordingly, the building plan of Escon Arena project was approved without any buffer zone. This project of Escon Arena was issued a NOC by the PPCB vide letter no. 3753 dated 21.05.2013.

C) Department of Town and Country Planning

While giving their opinion on village Nagla, the Dept. of Town and Country Planning informed, vide letter no. 871/DTP(S)/17-P-1(G) dated 12.04.2019 that a residential colony is permissible in this area, being a residential zone as per the master plan. This project is about 400 meters away from the factory, so there is no issue of a buffer zone.

D) Department of Housing and Urban Development

As per the report submitted by Greater Mohali Area Development Authority (GMADA), a subsidiary of Department of Housing and Urban Development, Punjab, vide letter no. SE(C-1)/GMADA/2020/1084 dated 03.09.2020, along with annexures, the following has been stated:

While sanctioning housing projects lying in the vicinity of industrial units falling within a 100 meters boundary of such an area, as per 'Common Unified Zoning Regulations' a condition regarding providing a minimum buffer of 15 meters long green belt of broad leaf trees between residential area and red category industry is imposed. This 15 metre buffer shall be provided by the owner of the project, who comes later. Therefore, there is no illegality for the operation of the industry in terms of its location / siting.

5. The Punjab Pollution Control Board, vide its letter no. 3530, dated 18.09.2020, submitted a report of its inspection of M/s Ajay Gelatine Private Limited, to oversee, whether the industrial unit had complied with its orders



for the control and management of odour and raw materials. Their findings are listed as under:

- a. The industry has provided a covered shed for the storage of the raw material i.e. raw hide, (of the dimensions of 11-meter x 18 meter x 7 meter) and during the visit, the raw material was stored inside the shed.
- b. The industry has provided an area marked for the storage of solid waste, which is under the shed.
- c. The industry has provided a pipeline around the boundary wall, as well as in the shed, with a spray nozzle for spraying the de-odorant to suppress the smell of the hide that is stored, as well as from the effluent treatment plant and other areas.

The report concluded that the industry had now made the entire area pucca, where product waste was earlier stored. The industry was found by the Board to have constructed a dedicated area for the storage of product waste and a mist sprayer was also found to be provided for it.

6. Considering the reports and replies furnished by various departments, I hereby record my observations and findings in the matter as under:

- i) The industrial unit Ajay Gelatine Products Pvt. Ltd. was given consent to establish in the year 1986. Subsequently, it was registered as a small-scale industry vide registration certificate dated 10.01.1989, and continues to operate as a small-scale industry, as confirmed by a certificate issued by the Ministry of Micro, Small and Medium Enterprises on 02.03.2020.
- ii) Thereafter, Ajay Gelatine was granted consent to operate under Sections 25/26 of the Water (Prevention and Control of Pollution)

Act, 1974, vide the letter issued by the Punjab Pollution Control Board, dated 02.02.1989, having validity up to 01.02.1990.

- iii) The industrial unit M/s Ajay Gelatine, in Village Nagla, Tehsil Dera Bassi, District SAS Nagar was an industry existing within the revenue estate of Village Nagla, outside the Municipal Limits of Zirakpur, till 2016.
- iv) The Group Housing Project M/s Escon Arena Apartments was established in the year 2013, with the permission of various departments, being part of the revenue estate of Village Singhpura, which fell under the Municipal limits of Zirakpur.
- v) After the inclusion of the revenue estate of Village Nagla within the Municipal limits of Zirakpur in the year 2016, the site of the industry was spot zoned by the Department of Town and Country Planning after obtaining objections from the general public, being an existing unit.
- vi) As far as the consideration of the siting criteria and Master Plan is concerned, the revenue estate of village Nagla fell within the Municipal limits of Zirakpur in the year 2016 and the site of the industry stands spot zoned and can be granted consent to operate by the PPCB. With regard to the operation of the industry before 2016, the industry fell under the agriculture zone of village Nagla, although the same was notified to be a residential zone as per the Master Plan notified in 2009. As per the provisions of the Master Plan, the activities of the existing industrial units in the non-conforming zone are allowed to be continued for a period of 15 years from the date of notification of Master Plan.



- vii) The issuance of notices, opportunities of hearing afforded to the unit and persuasion made by the Punjab Pollution Control Board, has led to the installation of an Effluent Treatment Plant (ETP) and Air Pollution Control Device (APCD) by the industrial unit namely M/s Ajay Gelatine, Village Nagla, Tehsil DeraBassi, District SAS Nagar.
- viii) Since the site of the industry is permissible as per the Master Plan and the industry took measures for the control of pollution including the installation of Effluent Treatment Plant and Air Pollution Control Device, the Punjab Pollution Control Board granted a consent to operate to the industry with suitable conditions.
- ix) The inherent odour from the industry due to the use of peculiar raw material i.e. hide and bones may persist during its operation and shall remain a cause of concern for the surrounding community. Therefore, the mitigation measures to control the odour emissions are a must. In furtherance of this, the industry needs to provide necessary arrangements, including enclosed operations with integrated odour management systems, or to explore alternative raw materials/processes. The consent to operate to the industry at the present location is based upon the spot zoning of the said location within the residential zone and no expansion in the process or production shall be allowed, being surrounded by a residential zone. The industrial unit is further required to adopt some remedial measures for control and management of odour, as suggested by the committee of visiting officers of the Punjab Pollution Control Board as under:



- a. The industrial unit shall store the raw material (raw hide) under a covered shed.
 - b. The industrial unit shall store the solid waste generated from the manufacturing process in a covered shed to avoid any odour caused due to its putrefaction during rains/wet weather and shall remove and dispose of the said waste regularly on a weekly basis.
- x) The industrial unit shall start spraying some suitable natural deodorant solution like eucalyptus oil on its raw material/solid waste generated from its process, for the control of odour. The industrial unit shall install an atomizer mist generator at the boundary of the unit towards sensitive receptor for suppressing the odour.
- xi) Many officers of the Punjab Pollution Control Board remained posted in the area of jurisdiction in which the industrial unit in question falls and for which period the unit allegedly remained in operation without the consent of the Board. These officers cannot be said to be in collusion with the industry, as the officers of the Board were continuously pursuing the industry to comply with the provisions of the law, by way of issuing notices and affording the opportunities of hearing. Consent to operate was granted to the industry only after it complied with the directions of the Board.
7. After considering all the facts and circumstances of the case and perusing the record of the case relating to various departments, I have reached the conclusion that no collusion of the officers of the different Departments can be made out. The industry has existed on the current site for the last many years, even when there was no habitation in the vicinity of site, and it was allowed operation as per the spot zoning of the master plan by the
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The Punjab Regional and Town Planning and Development Board. The industry has complied with all the necessary directions of the Punjab Pollution Control Board, before obtaining the consent to operate. All the additional requirement imposed on the industry by the Punjab Pollution Control Board has also been complied with.

8. That the above report is submitted in compliance of order dated 25.09.2019 for the kind consideration and appropriate orders of the Hon'ble Tribunal.

Place:
Date:



Deponent
(Vini Mahajan)
Chief Secretary

Government of Punjab
CHIEF SECRETARY
GOVERNMENT OF PUNJAB

VERIFICATION:

I, the deponent above named, do hereby verify and state that the contents of the above affidavit are true and correct to my knowledge, as derived from the official record. No part of it is false and nothing material has been concealed there from.

Place:
Date:



Deponent
(Vini Mahajan)
Chief Secretary
Government of Punjab

CHIEF SECRETARY
GOVERNMENT OF PUNJAB

Government of Punjab
Department of Science Technology and Environment
STE Branch

To

- (i) The Administrative Secretary,
Department of Housing & Urban Development
- (ii) The Chairman
Punjab Pollution Control Board, Patiala

Memo No. cofice-03/33/2020-STE(5)/40556
Dated Chandigarh 25-06-2020

Subject: Minutes of the meeting held under the Chairmanship of Chief Secretary, Punjab held on 18.6.2020 at 10.00 AM through Video Conferencing wrt compliance of order dated 25.09.2019 passed by the Hon'ble NGT in OA no. 390 of 2019 titled Escon Arena Apartment Owners Association v/s Punjab Pollution Control Board & another

Kindly refer to the subject cited above.

2. Please find enclosed herewith a copy of minutes of the meeting regarding compliance of order dated 25.09.2019 passed by the Hon'ble NGT in OA no. 390 of 2019 titled Escon Arena Apartment Owners Association v/s Punjab Pollution Control Board & another under the Chairmanship of Chief Secretary, Punjab held on 18.6.2020 at 10.00 AM through Video Conference for information and necessary action please.

Jahnu Kumar
Superintendent

Endst. No: cofice-03/33/2020-STE(5)/40556

Date: 25-06-2020

A copy of the above is forwarded to the following for their information:

- 1) OSD/CS for kind information of Chief Secretary, Punjab
- 2) PS/PSSTE for kind information of PSSTE.
- 3) PA/DSSTE for kind information of DSSTE.
- 4) Member Secretary, PPCB, Patiala

Jahnu Kumar
Superintendent

Minutes of the Meeting held under the chairmanship of Chief Secretary, Punjab on 18.06.2020 at 10:00 am through video conferencing w.r.t. compliance of order dated 25.09.2019 passed by the Hon'ble NGT in O.A. No. 390 of 2019 titled Escon Arena Apartment Owners Association v/s Punjab Pollution Control Board & another.

Principal Secretary, Science, Technology & Environment, Deputy Secretary, STE and OSD Legal (CS, Pb) were present in the meeting. Principal Secretary, Housing and Urban Development and Member Secretary, PPCB participated in the meeting through video conferencing.

2. M/s Escon Arena Apartment Owners Association has filed O.A. No. 390 of 2019 in Hon'ble National Green Tribunal (NGT) regarding air and water pollution caused by M/s Ajay Gelatine Products Pvt. Ltd., VIII. Nagla, Zirakpur, Distt. SAS Nagar. The Hon'ble Tribunal has passed an order dated 25/9/2019 which is reproduced as under:

"5. In view of above, we direct the Chief Secretary, Punjab, to look into the matter and take remedial action. The State PCB may initiate action for stopping illegal activity and recovering compensation on polluter pays principle and furnish a report to this Tribunal and the Chief Secretary."

"6. The Chief Secretary may look into the possible collusion of the concerned officer in permitting illegality and furnish an action taken report before this Tribunal before the next date by email at judicial-ngt@gov.in."

3. The brief facts of the case were discussed. It was informed that the industrial unit was set up in 1986 and it had obtained consent to operate from PPCB in the year 1989, which was valid for one year. Thereafter, the industrial unit continued to operate without any valid consent from PPCB. In the meanwhile the Master Plan of Zirakpur was notified in 2009 and this unit fell within the residential zone. However, this Master Plan was revised by the Department of Housing & Urban Development in the year 2016, where the unit was spot zoned, which allowed the unit to operate with 15 meter green belt around it. The consent to operate was again issued by PPCB in 2018.
4. It was informed by Punjab Pollution Control Board that presently the industry has installed the necessary effluent treatment plant and air pollution control device. However, the industry is required to take certain remedial measures to control the odour problem. Further, new residential projects are being sanctioned by the Department of Local Govt. in the vicinity of the industrial unit.
5. After going through the report submitted by the Punjab Pollution Control Board, it is decided by the Chief Secretary that the Punjab Pollution Control Board (PPCB) shall provide a detailed report containing the information about the chronology of events in the case from the time of establishment of the unit, with the names of responsible officers of Punjab Pollution Control Board. Details regarding the imposition of Environmental Compensation by PPCB.
6. Punjab Pollution Control Board will submit the report by 25.06.2020, so that action taken report is filed before the Hon'ble NGT.

KH