

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SITTING AT NEW DELHI**

Execution Application No.32/2021

In

Original Application No.722 of 2019

IN THE MATTER OF:

Raj Kumar Singal

..... Applicant

Versus

State of Haryana

..... Respondents

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Place: Panchkula

Dated: 09.07.2022

S. Narayanan
(S Narayanan)

Member Secretary, HSPCB

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SITTING AT NEW DELHI**

Execution Application No. 32/2021

In

Original Application No. 722 of 2019

IN THE MATTER OF:

Raj Kumar Singal

..... Applicant

Versus

State of Haryana

..... Respondents

Report on behalf of Haryana State Pollution Control Board through S. Narayanan, Member Secretary, HSPCB.

Most respectfully showeth:-

1. That the above mentioned matter is pending before this Hon'ble Tribunal for adjudication and is fixed for 13.07.2022.
2. That in the present matter during the course of on 28.10.2021 this Hon'ble Tribunal was pleased to pass an order and issued directions to Haryana State Pollution Control Board to file a factual report about the action. The relevant portion of the order is reproduced below for ready reference:-

"...5. However, before proceeding further, in our view, State PCB should file a factual report giving state of affairs as to what action it has taken till date pursuant to the aforesaid order. The said report shall be filed by State PCB through Member Secretary, Haryana, within one month, to the Tribunal, 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.

"6. We also make it clear that in case Member Secretary, in the said report, find that no action has been taken, then the reason for not taking any action shall be explained and he will also give details of

S. Narayanan

the officers who are/were responsible for implementation of this order but have failed to take any action in the matter. A copy of this order be forwarded to Member Secretary, Haryana and the State PCB by e-mail for compliance. The applicant may serve a set of papers on Member Secretary, Haryana and the State PCB and file affidavit of service within one week....”

3. That in the present matter, all the facts are before this Hon’ble Tribunal and for the sake of brevity they are not repeated here, but, before submitting the action taken, a brief history of the litigation and facts are outlined as under.

(i) That this Hon’ble Tribunal was pleased to pass an order on 05.08.2020 in the Original Application No. 722 of 2019 titled as Raj Kumar Singal Vs State of Haryana that State PCB to stop extraction of ground water by coercive means and to assess and recover compensation for illegal withdrawal. The relevant portion of the order dated 05.08.2020 is reproduced as under.

“.....5. In view of the fact that the unit has been found to be extracting ground water in the area, the State PCB must stop such extraction by coercive means, besides assessing and recovering compensation for such illegal drawal for the period for which such drawal took place upto five years from the date of filing of application before this Tribunal. No doubt, the Ground Water Authority is an express authority for the purpose, at the same time, if the Ground Water Authority has not taken such remedial action, the State PCB is not debarred from exercising such jurisdiction. As already noted, there is also violation of Consent terms under the Water and Air Acts which can certainly be enforced by the PCB, in view of failure of CGWB to take action”.

(ii) That in compliance of the order of this Hon’ble Tribunal, the matter was taken up by the Prescribed Authority-cum District Magistrate, Panipat, to assess the Environment Compensation and an order dated 31.08.2020 was passed with the direction to the petitioner unit to deposit the amount of Rs. 1,69,92,800/-, within 15 days to avoid further legal action for the said violations. It is also necessary to mention here that besides the above mentioned order an another order

3. Faray...

dated 31.08.2020 was also passed by the Prescribed Authority-cum-District Magistrate for imposition of Environment Compensation of Rs. 7,72,400/- upon the petitioner unit for domestic use of illegal extraction of ground water. Copies of orders dated 31.08.2020 are attached as **Annexure-R/1 and R/2**.

- (iii) That feeling aggrieved from the order of authorities of imposing environment compensation, M/s National Woollen & Finishers approached this Hon'ble Tribunal by filing an intervening application against the orders of imposition of Environment Compensation. The said application was dismissed by this Hon'ble Tribunal vide order dated 19.10.2020 with the observation that the order of the State PCB is statutorily appealable and the State PCB has to first consider the plea of the unit M/s National Woollen & Finishers, we do not find any ground to entertain the application. Copy of order dated 19.10.2020 is attached as **Annexure-R/3**.
4. That in view of the illegal extraction of ground water and for not obtaining the permission for extraction of ground water from Central Ground Water Authority (herein after referred to as CGWA) which amounts to violation of the terms of the Consent to Establish (CTE) and the Consent to Operate (CTO) granted in terms of section 25 of the Water Act, 1974 and section 21 of the Air Act, 1981 and keeping in view of the violation and non submission of the amount of Environment Compensation, HSPCB issued an order dated 12/13.01.2022 for cancellation/ withdrawal of CTO and besides this, the closure order dated 12/13.01.2022 was also issued. The copies of orders dated 12/13.01.2022 are attached as **Annexure-R/4 and R/5**.
5. That feeling aggrieved from the orders Annexure-R/4 and R/5, M/s National Woollen & Finishers filed an appeal before the Appellate Authority constituted under the Water and Air Act on 21.01.2022 against the closure orders and the appeal was taken up by the Appellate Authority on the same day i.e. 21.01.2022, and the impugned order dated 21.01.2022 was passed and operation of the closure order was stayed without affording an opportunity of hearing to the respondent Board, arbitrarily, against the principle of natural justice and against the settled law of Administrative Jurisprudence. Copy of the Order is attached as **Annexure R-6**.

S. Jayaram

6. That, in the meanwhile, after the issuance of the orders of Appellate Authority, the HSPCB's Regional Officers of Panipat and Karnal were asked to cross verify the amount of Environmental Compensation (EC) imposed for illegal extraction of ground water and they assessed a revised EC amount of Rs.13,75,944/- vide their communication dated 25.03.2022 and the Deputy Commissioner constituted a team for re-verification of the amount of EC vide his order dated 04.04.2022. However, Board did not accepted the revised EC amount as data provided by the unit was unauthenticated data of the unit. The revised calculation on the basis of unauthenticated data was not acceptable to the Board and the same was conveyed to Deputy Commissioner, Panipat vide its communication dated 09.05.2022, further informing him that the Board is appealing against the order of Appellate Authority regarding the stay on the closure and re-assessment in the Hon'ble NGT.
7. That HSPCB had filed the appeal No.25/2022 titled as Haryana State Pollution Control Board & Anr. Vs National Woollen & Finishers, Panipat before this Hon'ble Tribunal against the order dated 21.01.2022 of Appellate Authority and this Hon'ble Tribunal was pleased to allow the appeal vide order dated 31.05.2022 in terms that stay is vacated and impugned order is set aside with further directions that the petitioner to appear before the Appellate Authority on 04.07.2022.
8. That M/s National Woollen & Finishers filed a CWP No. 13676 of 2022 before Hon'ble High Court of Punjab and Haryana at Chandigarh against the orders dated 12/13.01.2022 (**Annexure-R/4 and R/5**). Hon'ble High Court vide order dated 29.06.2022 has dismissed the petition being withdrawn by the petitioner. Copy of the Order dated 29.06.2022 is attached as **Annexure R/7**.
9. That in view of the order dated 21.10.2021 of this Hon'ble Tribunal, Appellate Authority has taken up the matter on 04.07.2022 and passed an order. The relevant portion of the order is reproduced as under.

"...as an interim measure that the appellant will deposit the amount of environment compensation of Rs. 13,75,944/- as mentioned in the letter of regional Officer, HSPCB within period of seven days of receipt of copy of this order. On deposit of this amount, the order dated 12.01.2022 ordering closure of the appellant unit and the other order withdrawing consent to

3. [Signature]

operate, shall remain stayed till further orders subject to the condition that appellant shall comply with Terms & Conditions of Consent to Operate, allowed vide order dated 27.07.2020 and furnishing undertaking by appellant to HSPCB that ground water shall not be extracted for commercial use without permission of competent authority.

It is further made clear that in case any other amount of compensation is ordered to be paid by the appellant as per the recommendations of the committee constituted by District Magistrate-cum-Presiding Authority, Panipat, the payment of same by appellant will be considered after that order is placed on file..."

Perusal of the above mentioned order reflects that M/s National Woollen & Finishers has been directed to deposit the interim environmental compensation of Rs. 13,75,944/- within a period of seven days of receipt of the copy of the order and on deposit of the amount operation of the closure order and withdrawal of CTO shall remain stayed till further order by the Appellate Authority. Copy of the Order dated 05.07.2022 is attached as **Annexure R/8.**

10. It is worthwhile to mention here that in view of the submission made in the preceding paras it is clear that the order of this Hon'ble Tribunal has been taken up by the Haryana State Pollution Control Board with utmost sincerity and the matter has been processed appropriately, keeping in view of the spirit of the order despite multiple litigations, having been done by the owner of the unit. It is further submitted that at present appeal is pending before the Appellate Authority for adjudication. The Board will pursue the said pending proceedings with absolute sincerity and endeavor would be to get the appeal decided at the earliest.

In view of above, it is requested that the details submitted may kindly be taken on record.

Place: Panchkula

Dated: 09.07.2022

S. Narayanan
(S Narayanan)

Member Secretary, HSPCB

ORDER

Whereas, Hon'ble National Green Tribunal (NGT) has issued directions on 05/08/2020 in the matter of OA No. 722/2019 titled as Raj Kumar Shinghal V/s State of Haryana to impose Environment Compensation for the illegal drawl of ground water & closure action be sealing the borewell of these units shall be taken by CGWA and the action taken may also include compensation recovered by the State PCB for the illegal drawl of ground water.

Whereas, the matter regarding levy of compensation on the units involving in illegal extraction of ground water was examined by the HSPCB, Panipat and calculated on the basis of prescribed formula in OA No. 327 of 2018 as per the report dated 26/06/2019 of CPCB in which the concerned District Magistrate has been authorized to levy the compensation for the illegal withdrawal of ground water.

Whereas, vide letter No. HSPCB/PR/2020/3216 dated 29/01/2020 sent to this office by the Regional Officer, Panipat, whereby the Regional Officer has submitted this office the details of calculation methodology of levy of Environmental Compensation. The base year for the calculation has been taken from 15.04.2015 i.e. notification issued by CGWA for obtaining permission for withdrawal of ground water.

Whereas, the environment compensation is calculated on the basis of above formula in case of the unit M/s National Woollen & Finishers, Plot no. 302, Sector-29, Part-II, HUDA, Panipat Rs. 1,69,92,800/- and levied on the unit for the illegal drawl of ground water for process use.

Whereas, the unit M/s National Woollen & Finishers, Plot no. 302, Sector-29, Part-II, HUDA, Panipat is hereby directed to deposit the amount of Rs. 1,69,92,800/- to the HSPCB, Panipat within 15 days to avoid further legal action for the said violations.

-Sd-
District Magistrate-cum-
Prescribed Authority as
per report of CPCB dated
29/06/2019, Panipat

Endst. No. 3995-97/MB

Dated 31-08-2020

A copy of the above is forwarded to the following for information & further necessary action, please.

1. The Regional Officer, HSPCB, Panipat.
2. The Regional Director, Central Ground Water Board, North West Region, Plot no. 3A, Sec-27B, Chandigarh.
3. M/s National Woollen & Finishers, Plot no. 302, Sec-29, Part-II, HUDA, Panipat through Sh. Suresh Shinghal.

-Sd-
District Magistrate-cum-
Prescribed Authority as
per report of CPCB dated
29/06/2019, Panipat

ORDER

Whereas, Hon'ble National Green Tribunal (NGT) has issued directions on 05/08/2020 in the matter of OA No. 722/2019 titled as Raj Kumar Shinghal V/s State of Haryana to impose Environment Compensation for the illegal drawl of ground water & closure action be sealing the borewell of these units shall be taken by CGWA and the action taken may also include compensation recovered by the State PCB for the illegal drawl of ground water.

Whereas the matter regarding levy of compensation on the units involving in illegal extraction of ground water was examined by the HSPCB, Panipat and calculated on the basis of prescribed formula in OA No. 327 of 2018 as per the report dated 26/06/2019 of CPCB in which the concerned District Magistrate has been authorized to levy the compensation for the illegal withdrawal of ground water.

Whereas, vide letter No. HSPCB/PR/2020/3216 dated 29/01/2020 sent to this office by the Regional Officer, Panipat, whereby the Regional Officer has submitted this office the details of calculation methodology of levy of Environmental Compensation. The base year for the calculation has been taken from 15.04.2015 i.e. notification issued by CGWA for obtaining permission for withdrawal of ground water.

Whereas, the environment compensation is calculated on the basis of above formula in case of the unit M/s National Woollen & Finishers, Plot no. 302, Sector-29, Part-II, HUDA, Panipat of Rs. 7,72,400/- and levied on the unit for the illegal drawl of ground water for domestic use.

Whereas, the unit M/s National Woollen & Finishers, Plot no. 302, Sector-29, Part-II, HUDA, Panipat is hereby directed to deposit the amount of Rs. 7,72,400/- to the HSPCB, Panipat within 15 days to avoid further legal action for the said violations.

-Sd-

**District Magistrate-cum-
Prescribed Authority as
per report of CPCB dated
29/06/2019, Panipat**

Endst. No. 3992-94/MB

Dated 31-08-2020

A copy of the above is forwarded to the following for information & further necessary action please.

1. The Regional Officer, HSPCB, Panipat.
2. The Regional Director, Central Ground Water Board, North West Region, Plot no. 3A, Sec-27B, Chandigarh.
3. M/s National Woollen & Finishers, Plot no. 302, Sec-29, Part-II, HUDA, Panipat through Sh. Suresh Shinghal.

-Sd-

**District Magistrate-cum-
Prescribed Authority as
per report of CPCB dated
29/06/2019, Panipat**

Item No. 02

Court No. 1

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

(By Video Conferencing)

M.A. No. 65/2020 for impleadment & M.A. No. 66/2020 for modification
of order dated 05.08.2020

IN

Original Application No. 722/2019

Raj Kumar Singhal

Applicant

Versus

State of Haryana

Respondent

Date of hearing: 19.10.2020

**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: Mr. Rasheed Saeed, Advocate in M.A No. 65/2020 & 66/2020

ORDER

1. These applications have been filed in a decided matter. This Tribunal, on receiving a report from the State PCB that an industrial unit was illegally extracting ground water, directed the State PCB to take appropriate action for assessment and recovery of compensation, following due process of law.

2. The present application seeks to dispute the report of the State PCB by submitting that extraction of ground water is for drinking purposes and was legally permissible.

3. Since the order of the State PCB is statutorily appealable and the State PCB has to first consider the plea of the applicant, we do not find any ground to entertain the applications.

The applications are dismissed in view of above observations.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

October 19, 2020
M.A. No. 65/2020 & M.A. No. 66/2020
IN Original Application No. 722/2019
AK



HSPCB

HARYANA STATE POLLUTION CONTROL BOARD
C-11 Sector-6, Panchkula
Ph – 0172- 577870-73, Fax No. 2581201
E-mail- hspcbho@gmail.com
Website: hspcb.gov.in

CANCELLATION/WITHDRAWAL OF CONSENT TO OPERATE

Whereas, M/s National Woollen & Finishers, Plot No. 302, Sector-29, Part-II, HUDA Industrial Estate, Panipat has established and been operating for Dyeing of Fabric and covered under Red category and is polluting in nature;

Whereas, the matter of OA No. 722/2019 and EA No. 32/2021 titled as Raj Kumar Singhal Vs SoH is pending before National Green Tribunal, New Delhi and the Hon'ble Tribunal has sought the affidavit of Member Secretary of Haryana State Pollution Control Board;

Whereas, Consent to establish was grant to you by District Level clearance committee Panipat vide letter No. HSPCB/ 2012/ NOC/ 3978 dated 03.09.2012 with conditions and one of the conditions was as under:-

"3. industry should adopt water conservation measures to ensure minimum consumption of water in their process and unit will obtained clearance / permissions from central ground water authority for installation of tubewell/ borewells and for their ground water based proposals for there units.

6. The NOC so granted is without prejudice of the action to be taken for violations of any other Acts/ Rules of any Departments.";

Whereas, Consent to operate under Water (Prevention and Control of Pollution) Act, 1974 and under Air (Prevention and Control of Pollution) Act, 1981 was granted by the Board vide letter no. HSPCB/Consent/:19570820PITCTO7714530 Dated:27/07/2020 to the above said unit;

Whereas, Regional Officer Panipat of the Board vide his letter no. 4763 dated 30.12.2021 has intimated that the above said unit has made the violations of the conditions of CTE granted under the provisions of the Water Act, 1974 and Air Act, 1981 and unit has not obtained permission for extraction of ground water from CGWA/HWRA and also not deposited the amount of Environment Compensation for illegal extraction of ground water;

Whereas, Show Cause Notice for cancellation/withdrawal of Consent to Operate under section-27 of Water (Prevention and Control of Pollution) Act, 1974 and under section-21 of Air (Prevention and Control of Pollution) Act, 1981 was issued to the unit by Head Office vide letter No. I/79574 dated 02.12.2021 and unit has not submitted the reply of the said show cause notice; and,

Whereas, Regional Officer, Panipat has recommended vide his letter no.4763 dated 30.12.2021 for cancellation/withdrawal of Consent to operate under section 27 of Water (Prevention and Control of Pollution) Act, 1974 and under section-21 of Air (Prevention and Control of Pollution) Act, 1981 as the above said unit has violated the provisions under section-25 of Water (Prevention and Control of Pollution) Act, 1974 and

under section-21 of Air (Prevention and Control of Pollution) Act, 1981;

Therefore, considering the recommendation of Regional Officer, Panipat and keeping in view the above said facts, the consent to operate granted by the Board to the above said unit vide no. HSPCB/Consent/:19570820PITCTO7714530 Dated:27/07/2020 is hereby cancelled/withdrawn under section 27 of Water (Prevention & Control of Pollution) Act, 1974, and under section-21 of Air (Prevention and Control of Pollution) Act, 1981with immediate effect.

**Dated Panchkula, the
12th January, 2022**

**P. Raghavendra Rao, IAS (Retd.)
Chairman**

Endst. No. HSPCB/2022/

Dated:13/01/2022

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

1. The Regional Officer, Panipat in reference to his letter no. 4763 dated 30.12.2021. He is asked to initiate legal action and EC against the above said unit in view of revocation of consent to operate immediately.
2. M/s National Woollen & Finishers, Plot No. 302, Sector-29, Part-II, HUDA Industrial Estate, Panipat.

Signed by: Jatinder Pal
Sr. Env. Engineer (WC)
For Chairman
Date: 13-01-2022 13:07:52
Reason: Approved



HARYANA STATE POLLUTION CONTROL BOARD
C-11 Sector-6, Panchkula

Ph – 0172- 577870-73, Fax No. 2581201

E-mail- hspcbho@gmail.com Website: hspcb.gov.in

HSPCB

CLOSURE ORDER

Whereas, M/s National Woollen & Finishers, Plot No. 302, Sector-29, Part-II, HUDA Industrial Estate, Panipat has established and been operating for Dyeing of Fabric and covered under Red category and is polluting in nature; and

Whereas, the matter of OA No. 722/2019 and EA No. 32/2021 titled as Raj Kumar Singhal Vs SoH is pending before National Green Tribunal, New Delhi and the Hon'ble Tribunal has sought the affidavit of Member Secretary of Haryana State Pollution Control Board; and

Whereas, Consent to establish was grant to you by District Level clearance committee Panipat vide letter No. HSPCB/ 2012/ NOC/ 3978 dated 03.09.2012 with conditions and one of the conditions was as under:-

"3. industry should adopt water conservation measures to ensure minimum consumption of water in their process and unit will obtained clearance / permissions from central ground water authority for installation of tubewell/ borewells and for their ground water based proposals for there units.

6. The NOC so granted is without prejudice of the action to be taken for violations of any other Acts/ Rules of any Departments."; and

Whereas, the above said unit was visited by the Field Officer of the Board on dated 13.02.2020 and reported that unit has not obtained permission for extraction of ground water from CGWA/HWRA and also not deposited the amount of Environment Compensation of illegal extraction of ground water; and

Whereas, the consent to operate granted to unit vide no HSPCB/Consent/:19570820PITCTO7714530 Dated:27/07/2020 for the period 01.10.2020 - 30.09.2025 has been revoked and thus, the industry is operating without consent to operate; and

Whereas, Show Cause Notice for closure was issued to the above said unit by Head Office vide letter no. I/79574 dated 02.12.2021 and unit has not submitted reply till date; and

Whereas, Regional Officer, Panipat vide his letter no. 4763 dated 30.12.2021 has recommended for taking closure action against the unit under section, 33-A of Water (Prevention & Control of Pollution) Act, 1974 and under section 31-A of Air (Prevention & Control of Pollution) Act, 1981; and

Therefore, keeping in view of the above said facts and in exercise of the powers conferred under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and under section 31A of Air (Prevention & Control of Pollution) Act, 1981, it is hereby ordered

to close down the operation of M/s National Woollen & Finishers, Plot No. 302, Sector-29, Part-II, HSVP, Industrial Estate, Panipat by sealing its plant, machinery and DG sets alongwith disconnection of the electric supply and water supply with immediate effect.

In addition to above it is also intimated that non compliance of directions issued under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and under section 31A of Air (Prevention & Control of Pollution) Act, 1981 is an offence.

**Dated Panchkula, the
12th January, 2022**

**P. Raghavendra Rao, IAS (Retd.)
Chairman**

Endst. No.

Dated:-

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

1. The Deputy Commissioner, Panipat.
2. Executive Engineer (Operation Division), UHBVN, Panipat. He is directed to disconnect the electric supply of the above said unit immediately and submit compliance report within 03 days.
3. Executive Engineer, HSVP, Panipat. He is directed to disconnect the water supply of the above said unit immediately and submit compliance report within 03 days.
4. The Regional Officer, Panipat. He is asked to ensure the compliance of closure order and to submit compliance report in this regard within 03 days. He should also send the case for Environment Compensation and prosecution.
5. M/s National Woollen & Finishers, Plot No.302, Sector-29, Part-II, HUDA Industrial Estate, Panipat.

Sr. Env. Engineer (WC)
Signed by Jatinder Pal
For Chairman
Singh

Date: 13-01-2022 13:12:13

Reason: Approved

From:

Dated. 01/02/2022

ms

1/2/2022

Appellate Authority of Haryana State Pollution Control Board

To

The Chairman,
Haryana State Pollution Control Board,
C-11, Sector-6, Panchkula.

Memo No: 1- Appellate

Dated: - 21-2-2022

**Subject: - Appeal No. 05 of 2022 M/s National Woolen and Finishers ., V/s
Haryana State Pollution Control Board.**

Reference on the Subject noted above.

2. The certified copy of the Appellate Authority's orders dated 21.01.2022 in respect of subject cited appeal is hereby sent for further necessary action .

Kamal Dew
Superintendent, Environment

For Appellate Authority of Haryana State Pollution Control Board

BEFORE THE APPELLATE AUTHORITY (HARYANA) UNDER THE WATER
(PREVENTION AND CONTROL OF POLLUTION) ACT 1974, AIR (PREVENTION
AND CONTROL OF POLLUTION) Act, 1981.

Appeal No. 05 /2022

M/s National Woollen and Finishers, Panipat

..... Petitioner

Vs

Haryana State Pollution Control Board and another

..... Respondents

Present:

Shri Jitender Dhanda, Advocate, Counsel for the petitioner.

ORDER

This appeal was taken up for hearing today and is directed against the order passed dated 12.01.2022.

2. Very briefly stated, M/s National Woollen and Finishers obtained Consent to Establish in the year 2013 and further obtained the Consent to Operate in 2013 on the first occasion and, again on 27.07.2020 on the second occasion. Subsequently, as the record suggests, in 2022, the consent dated 27.07.2020 was withdrawn. As the record further suggests, the primary reason to this withdrawal was that the industry, rather than establishing water and conservation measure, had installed Tube well for extracting water for running their unit. Based on a report suggesting primarily this from the Regional Officer, the Consent was finally withdrawn on 12/13.01.2022. This appeal has been directed against the said order. (It is pertinent to mention that the order records no detailed submissions supporting the claim on counter claim of any party).

3. While arguing his case, the counsel for the appellant made following submissions:

- (i) Their unit was operating since 2013 and such type of complaint was never received against them in the last about 8 years.
- (ii) One of the most relevant aspect which has been the ground in the final order of withdrawal of CTO dated 27.07.2020 has failed to mention the quantum of water derived from underground sources. In fact about 95% of the water used for the purposes of running the industry is purchased by the unit from HUDA while passing the order, this aspect was not even acknowledged. In support thereof, they have submitted a very bulky document of water consumption Log Book maintained by the unit as per the directions of the HSPCB itself. There are months where the total consumption of water bought from HUDA goes right upto 1200

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KL. It is completely overlooking the contents of this register which has been maintained in compliance of the order of the Board itself while passing order dated 12.01.2022. The company maintained a register at the direction of Pollution Board and the same is absolutely overlooked while passing order makes the order absolutely malicious.

- (iii) To corroborate the fact that HUDA has actually sold so much quantity of water to the unit, the appellant has also submitted certificate issued by the HUDA dated 24.08.2020 whereby they have agreed that from 17.09.2013 to 24.08.2020, a total of 6965 KL of water has been sold to this unit.
- (iv) With such extensive consumption of water bought from HUDA, to penalise the unit on the ground that it unauthorizedly drawn water, is also malicious.

4. Extending these pleas, a request was made to stay the operation of the order dated 12.01.2022 passed by the Haryana State Pollution Control Board.

5. A telephonic enquiry was made from the authority of the Board which confirm that none of the lawfully permissible instrument grant them the authority to take punitive action of the type taken on the alleged violation of drawing ground water, least of all to close the unit,. It was insisted that such authorities vests in other lawful institutions.

6. I have given a very careful consideration to the entire issues which has been brought in my notice and my main findings are following:

- (i) Unit had consumed water continuously for more than eight years including by purchasing from HUDA. If the unit was not buying water from HUDA, the situation would have been different. But a very substantially quantity of water was and is bought from HUDA.
- (ii) Though it is likely that small units indulge in unlawful activities, more particularly in case of drawing, using and disposing used waste water in illegal manner and such unlawful activities need to be curbed by using lawfully permissible action by institutions of the law. it need to be done by applying due diligence. Allegations need to be recorded and properly enquired into.
- (iii) The size and age of the unit in question is certainly not a one which can, at the face of it, can support prima facie that the unit be said that the unit continued with such illegal activities (by meeting its water needs by pumping ground water for

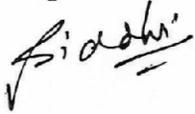
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such a long time) simply because the size and consumption and volume is so much that it is difficult to believe it. In fact, if such magnitude of violation in the unit of the size in discussion continued for a period as long as 8 years, it speaks about the law enforcing agencies very poorly.

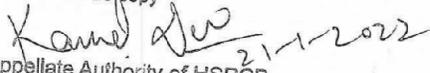
7. In view of the above and applying my mind, I come to the conclusion that a much deeper examinations in this case is required to be made before passing order and the operation on the order dated 12/13.01.2022 passed by the Board deserves to be stayed and I order accordingly. No action should be taken on order dated 12/13.01.2022

8. Before any further analysis and examination and order is passed replacing the one which has now been stayed, it need to be done on a very thorough analysis of all existing material and available data and evidences.

Chandigarh
21.01.2022


(S.N.Roy)
Appellate Authority

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For Appellate Authority of HSPCB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CWP-13676-2022

Date of decision : 29.06.2022

National Woolen and Finishers

....Petitioner

V/s

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sumeet Goel, Senior Advocate with
Mr. Achin Gupta, Advocate for the petitioner.
Mr. Deepak Balyan, Additional Advocate General, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Learned State counsel has referred to the order dated 31.05.2022 vide which a direction was issued to the appellate authority to decide the appeal on merits which is fixed for hearing on 04.07.2022 and notice is already issued to petitioner. He further submits that in view of the directions issued to the appellate authority, the appeal is likely to be decided expeditiously.

In view of same, learned senior counsel for the petitioner submits that he may be permitted to withdraw this petition at this stage with liberty to file fresh one in case any adverse order is passed by the appellate authority.

Dismissed as withdrawn with aforesaid liberty.

**(ARVIND SINGH SANGWAN)
JUDGE**

**(VIKAS SURI)
JUDGE**

June 29, 2022

Ajay

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No

In the Appellate Authority to HSPCB O/o Admission and Fee Regulatory
Committee, Haryana, SCO No. 38-39, Sector-17A, Chandigarh

Appeal No. 5/2022

M/s National Woolen and Finishers

v/s

Haryana State Pollution Control Board

Copy of order- 05.07.2022

Next date of hearing:- 09.08.2022

Copy of order:-



Attested to be true copy


Assistant
For President Appellate Authority HSPCB Panchkula

present:

Shri Sumeet Goel, Senior Advocate with Shri A. K. Ranjan, Advocate and Shri Achin Gupta, Advocate for appellants
Shri Satbir Singh, District Attorney alongwith Shri Ramesh Chahal, Advocate for respondents

The respondent no.1 under the directions of the Hon'ble National Green Tribunal initiated proceedings against the appellant and an amount of Rs.1,69,92,800/- was calculated for illegal extraction of ground water for commercial use by the appellant. District Magistrate-cum-Prescribed Authority, Panipat vide two separate orders dated 31.08.2020 (Annexure 6 and 7) directed the appellant to deposit the above amount alongwith Rs.7,72,400/- for extraction of ground water for domestic use

On 2.12.2021 a show cause notice was issued to the appellant by respondent No. 1 on the ground as follows:

"Whereas, District Magistrate after the report of Regional Office, HSPCB Panipat imposed an environment compensation of Rs.7,72,400/- vide order no.3992-94/MB dated 31.08.2020 and Rs.1,69,92,800/- vide order no.3995-97/MB dated 31.08.2020 on your unit for illegal extraction of ground water without permission from CGWA and District Magistrate vide his order no.3998-4001/MB dated 31.08.2020 constituted a committee for sealing the illegal bore well of the M/s National Woollen & Finishers, P. No.302, Sector 29, Part-II, Panipat; and

Whereas, it is learned from Regional Office, HSPCB, Panipat that you have not deposited the same so far;

Whereas, you have also violated the conditions of the consent regarding permissions from CGWA before installation of Bore well and also not complied the directions for deposition of the Environment Compensation thus violating the conditions of consent to operate wherein you are supposed to comply all directions;

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Assistant
For President Appellate Authority HSPCB Panchkula
6/7/2022



Therefore, in compliance of the directions of Hon'ble NGT and the non-compliance of your unit on the directions by way of non-deposit of the compensation imposed on you by the competent authority, this Show Cause Notice is issued to you to reply as to why the Consent to Operate granted to your unit should not be revoked and your industry be closed for the non-compliance. Your reply must reach within 7 days failing which it will be presumed that you have nothing to say in this matter and further action shall be initiated, as per the procedure.

Learned counsel for the appellant has submitted that the amount of compensation as per the letter of Regional Officer, HSPCB, Panipat has been revised to Rs.13,75,944/- and copy of that order dated 28.03.2022 is on page 13 with the additional affidavit. The appellant is ready to deposit this amount within a week. He further submitted that the other ground for ordering closure of the appellant unit, is that they have not applied for extraction of ground water. The appellant vide receipt Annexure-14 dated 15.01.2019 have already applied for extraction of ground water and no order, in this regard, has been received so far despite the passing of more than three year.

Learned counsel for respondent submit that the amount of compensation payable by the appellant was recalculated by a committee constituted by HSPCB, comprising of Regional Officers, HSPCB, Panipat and Karnal as Rs.13,75,944/- and recommendation to this effect were conveyed to the District Magistrate-cum-Prescribed Authority, Panipat to recover amount of revised compensation of Rs.13,75,944/-. However, the District Magistrate-cum-Prescribed Authority, Panipat has again constituted a committee comprising of six officers vide his order dated 29.06.2019 and the report of that committee is still awaited.

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6/7/22

For President Appellate Authority HSPCB Panchkula

- A -

Taking note of above facts and the submission of learned counsel for appellant and respondents, it is ordered, as an interim measure, that the appellant will deposit the amount of Environment Compensation of Rs.13,75,944/- as mentioned in the letter of Regional Officer, HSPCB within a period of seven days of receipt of copy of this order. On deposit of this amount, the orders dated 12.01.2022 ordering closure of the appellant unit and the other order withdrawing consent to operate, shall remain stayed till further orders subject to the condition that appellant shall comply with the Terms & Conditions of Consent to Operate, allowed vide order dated 27.07.2020 and furnishing undertaking by appellant to HSPCB that ground water shall not be extracted for commercial use without permission of competent authority.

It is further made clear that in case any other amount of compensation is ordered to be paid by the appellant as per the recommendation of the committee constituted by the District Magistrate-cum-Prescribed Authority, Panipat, the payment of same by appellant will be considered after that order is placed on file.

The learned District Attorney and Counsel for respondent seek adjournment to file reply on merit. The same be filed within three weeks with advance copy to appellant.

List on 09.08.2022.

It has been pointed out appellant has not deposited required fee of Rs.20000/- for filing of this appeal. Learned counsel for the appellant has undertaken to make good the deficiency, if any. Office will report in this regard on next date of hearing.



Dated 05.07.2022

Justo
Appellate Authority, HSPCB

Attested to be true copy

[Signature]
Assistant
For President Appellate Authority HSPCB Panchkula
6/7/22