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**Before the Hon'ble National Green Tribunal  
Principal Bench, New Delhi**

**Original Application No. 606 of 2022  
(I.A No. 262/2022)**

**Public Action Committee and Others**

**--Applicant**

**Versus**

**State of Punjab and Others**

**--Respondents**

Short reply of Er.Guneet Sethi, Environmental Engineer, Punjab Pollution  
Control Board, Regional Office, Faridkot on behalf of Punjab Pollution Control Board.

**Respectfully showeth:**

- 1) That the applicants have filed the subject cited application before the Hon'ble Tribunal seeking inter alia the reliefs of sealing the industry, namely- M/s Malbros International Pvt. Ltd. (Distillery), situated at Zira (Punjab) for their illegal acts of contaminating soil as well as Ground Water Table and quality in radius of around 4 Km by dumping the effluent after excavating the top earth surface of its adjoining plot as well as by discharging the same into Earth by method of deep reverse boring. Prayer has also been made for imposition of environmental compensation of Rs. 100/- crore on the Project Proponent.
- 2) That Vide order dated 30.08.2022, this Hon'ble Tribunal was pleased to constitute a Joint Committee comprising of CPCB, State PCB, State Ground Water Board and Deputy Commissioner, Firozpur and directed the same to submit report within one month. Status report was filed by the undersigned Environmental Engineer, Regional Office, PPCB, Faridkot vide letter dated 21.10.2022 sent through email dated 21.10.2022.

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- 3) That in the status report the Joint Committee has inter-alia mentioned that the Government agencies as well as the NGT Monitoring Committee have already carried out monitoring on the observations of the Public Action Committee and the industry is lying closed w.e.f 24.07.2022, so no useful purpose will be served by repeating the exercise already conducted by NGT Monitoring Committee. However, the Joint Committee shall carry out visit to the site in case this Hon'ble Tribunal considers so in view of the facts explained in the status report or as and when the industry re-commissions/resume its operations.
- 4) That thereafter the applicants had filed an interim application no.262/2022 for abolishing the Joint Committee constituted vide orders dated 30.08.2022 and formulation of new Committee comprising of Members (outside Punjab and Chandigarh) with some independent expert like Prof. C. R. Babu with nodal officer from Central Pollution Control Board (CPCB) and the Joint Committee may be directed to join the applicants at the time of visits of the premises and affected areas and besides seeking samples by themselves, samples may be taken on the suggestion of applicants also. The applicants have further prayed for issuance of directions for carrying on all necessary equipment (Plant and Machinery) including efficient bore detection machines, submersible borehole making machines, soil and water sampling equipment, etc. at the time of inspection of the factory and affected area of Zira (Punjab).
- 5) That in the above background of the case, this Hon'ble Tribunal was pleased to pass an order dated 8.12.2022, thereby calling response of the State of Punjab through Chief Secretary, Government of Punjab, the Chairman, Punjab Pollution Control Board, Executive Engineer, Punjab Pollution Control Board, Regional Office and other respondents as mentioned in the order dated 8.12.2022. The present response in compliance to the order dated 8.12.2022 is being filed by the Environmental Engineer, Punjab Pollution Control Board, Regional Office, Faridkot on behalf of Punjab Pollution Control Board i.e. respondent no. 2 and 3. The relevant facts of the case may kindly be read in the following paragraphs.



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6) That it is respectfully submitted that apart from the present case M/s Malbros International Pvt. Ltd., Village Mansoorwal, Tehsil Zira, District Ferozepur has also filed a Civil Writ Petition bearing no. 16500 of 2022 titled as M/s Malbros International Pvt. Ltd. and another v/s State of Punjab and others before the Hon'ble Punjab and Haryana High Court for the issuance of a writ in the nature of mandamus directing the official respondents for ensuring security, free passage and smooth working of the industry without interference and threats being posed by respondent no. 7 to 12 alongwith general public which is alleged to be violating the fundamental right of the petitioner no. 2. A further prayer for issuance of directions to the official respondents for the protection of the workers, explosive stock and premises of the petitioner firm from the said respondents has also been made.

7) That the Hon'ble Punjab and Haryana High Court has passed series of orders dated 29.7.2022, 25.8.2022, 17.10.2022, 22.11.2022, 20.12.2022 and 23.12.2022 in Civil Writ Petition No. 16500 of 2022 and the State of Punjab has been directed to deposit an amount of Rs. 5.0 Crore and Rs. 15.0 Crore with the registry of the Court with certain other directions. The copy of orders dated 22.11.2022 and 23.12.2022 passed by the Hon'ble Punjab and Haryana High Court are enclosed herewith as **Annexure A and B** respectively.

8) That the Government of Punjab vide order dated 21.12.2022 has constituted four number committees to look into the grievances of the nearby villages with direction to submit report relating to water pollution and public hearing, to investigate the increasing cases of cancer, hepatitis-B etc. in the villages surrounding the factory; the damage to soil and crops; to investigate the loss of animals. These committees have been mentioned in the order dated 23.12.2022 of the Hon'ble Punjab and Haryana High Court which is enclosed herewith as **Annexure-B**. The Committee to assess Water Pollution and provisions of Public hearing has been re-constituted by the Government vide order dated 25.12.2022.

9) That it is relevant to mention here that M/s Malbros International Pvt. Ltd. (Distillery) was earlier granted varied consents to operate by the Board under the Water (Prevention and Control of Pollution) Act, 1974 vide letter dated

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10/11/2022  
 Praveen Kumar  
 Notary Public  
 Govt. of India  
 No. 4047

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12/11/2021 and under the Air (Prevention and Control of Pollution) Act, 1981 vide letter dated 12/11/2021, both valid upto 31/12/2022 for the operation of the unit for production of Grain Based Anhydrous Denatured Ethanol/ENA/RS/Industrial Alcohol Plant @ 280 KLD, Animal feed Supplement /Cattle Feed/Poultry Feed @ 140 MTD, Cogeneration plant @ 12 MW alongwith CO2 @ 125 MTD by using Nakku (Grain unfit for human consumption) / Bajra/Maize/Sorghum @ 650 MTD as raw material.

However, the consent to operate as applied by the industry under the Water (Prevention and Control of Pollution) Act, 1974 has been refused by the Board vide order dated 3.2.2023 due to certain reasons as mentioned therein. Copy of order dated 3.2.2023 of the Board is enclosed herewith as **Annexure-C**. The consent to operate application of the industry under the Air (Prevention and Control of Pollution) Act, 1981 is under consideration of the Board.

10) That it is pertinent to mention here that the industrial unit namely M/s Malbros International Pvt. Ltd. (Distillery) is lying closed. The Board is in agreement with the contention of the Joint Committee that no useful purpose will be served by again visiting the industry when the industry is not in operation and is lying closed.

11) That the response of the Punjab Pollution Control Board is hereby submitted in compliance to order dated 8.12.2022 for kind perusal and appropriate orders of the Hon'ble Tribunal.

Dated:-  
18 FEB 2023



Submitted by

*(Wani)*  
(Guneet Sethi)

Environmental Engineer,  
Punjab Pollution Control Board,  
Regional Office, Faridkot  
on behalf of Punjab Pollution Control Board  
(Respondent no.2 and 3)

Verification

Verified that the contents of para no.1 to 10 of the above reply are true and correct to my knowledge as derived from the official record. Para no.11 is prayer. No part of the above reply is false and nothing material has been kept concealed therein.

Dated:- 18 FEB 2023

*(Guneet Sethi)*

**Environmental Engineer,  
Punjab Pollution Control Board,  
Regional Office, Faridkot  
on behalf of Punjab Pollution Control Board  
(Respondent no.2 and 3)**

*M*

certified that the Affidavit has been read over and explained to the Deponent/Executant who seemed perfectly to understand the same at the time of making thereof.

SN No. 235.



**ATTESTED**

*M*

**PRADEEP KUMAR  
NOTARY Chandigarh (U.T.)**

**18 FEB 2023**

**CWP-16500-2022 (O&M)**

M/S MALBROS INTERNATIONAL PVT. LTD. AND ANR.

V/S

STATE OF PUNJAB AND OTHERS

Present: Mr. Puneet Bali, Sr. Advocate with  
Mr. Sandeep Goyal, Mr. Sachin Jain,  
Ms. Vidisha Swaroop & Ms. Mahima Gill, Advocates  
for the petitioners.

Mr. Vinod Ghai, Advocate General, Punjab, assisted by  
Mr. Aman Pal, Addl. AG, Punjab.

Mr. R.S. Bains, Sr. Advocate with  
Mr. Aman Raj Bawa, Advocate for respondents No.7 and 8.

Ms. Saigeet Srivastava, Advocate,  
for respondent No.12 – Union of India.

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\*\*\*\***CM-15953-CWP-2022**

The instant application has been filed under Section 151 of the Code of Civil Procedure, for placing on record the objections/observations to the sample analysis report.

The application is allowed subject to all just exceptions.

The objections/observations to the sample analysis report are taken on record.

Registry is directed to tag the same at appropriate place.

**CWP-16500-2022 (O&M)**

The present writ petition has been instituted for seeking issuance of directions to the respondents for ensuring security, free passage and smooth working of petitioner No.1-Unit that has been established as per law and after obtaining all necessary statutory approvals, without interference and threats posed by respondents No.7 to 11 and other protesters/members of the General Public who have blocked the passage of petitioner No.1-Unit and are now allowing free movement of men and material. Consequently, the industrial operations of the petitioner No.1-Unit have come to a halt.

The specific case of the petitioner No.1-Unit which is a grain based distillery unit and is also running a bottling plant is that the petitioner No.1-Unit has been set up after obtaining all statutory licenses and permission for running of distillery, bottling plant, manufacturing of Ethanol and power generation plant. The petitioners claim to have all requisite licenses issued by the Punjab Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974 and consent to operate as well. All the aforesaid approvals are valid and are in existence. It has also been averred that the petitioner No.1-Unit had installed Trade Effluent Plant of the capacity of 1960.0 KL/ day for treatment through Effluent Treatment Plant (ETP) and three stages R.O. System has made for reuse of 697 KLD of Treated Trade Effluent. Additionally, the petitioner No.1-Unit has also developed a Green Belt in 33% in the total area of the premises as required by law and requisite Emissions control equipments have also been installed. It is averred that petitioner No.1-Unit has zero liquid discharge and all the necessary clearances have been granted by the Ministry of Environment, Forest and Climate Change. However, on account of vested and mischievous interest,

there has been a protest by the residents led by respondents No.7 to 11. They have blocked the entrance of petitioner No.1-Unit by installing tents alleging that the petitioner No.1-Unit is discharging effluent and that the proper machinery for checking emissions has not been installed. It was also alleged that the residue of the effluent discharge by the petitioner No.1-Unit has contaminated the sub soil water and traces of 'lahan' can be found therein. Petitioner No.1-Unit claims to have tried to reason with the protesters that no traces of 'lahan' percolate in sub-soil in Grain Based Distillery as such residue is generated only in a molasses based distillery but to no avail. The petitioners thus approached the District Administration for taking adequate measures and for removal of the unauthorized and illegal protest staged by the private respondents and members of the General Public at their enticement. The District Administration deployed large police force, however, it did not take any effective steps for ensuring disbursal of the illegal protesters and rather chose to adopt a soft paddle approach. The petitioner also informed the Administration that it has been manufacturing Ethanol, which is an inflammable object, which ought to be removed from the premises to avoid any untoward incident. However, the Administration failed to take appropriate measures. So much so, the protesters did not even allow the labourers/workers/officials working in the petitioner No.1-Unit to come out due to which food had to be got delivered through drone. The petitioner also preferred a Civil Suit before the Civil Judge (Senior Division), Zira, however, even service on the respondents is not being effected. The petitioners claim that it has set up the Unit with an investment of more than Rs.300 Crores of which the capital investment of Rs.200 Crores has been raised from financial institutions entailing a monetary liability of

more than Rs.2 Crores per month towards the installments. In addition, Rs.1.5 Crores have to be borne as recurring salary bills per month. Since fundamental rights of the petitioner No.1-Unit under Article 19 (1) (g) of the Constitution of India, are being violated, hence, the present petition has been filed.

Written statements on behalf of the private respondents have been filed wherein the private respondents placed reliance on the averments noticed above and alleged that the Unit was causing contamination of the soil as well as the sub soil water and was endangering the lives of the residents. It was alleged that as the owner was not taking appropriate measures, hence, they had to resort to the protests and to stop the functioning of the petitioner No.1-Unit. The private respondents, against whom the allegations were leveled thus admitted that they are not allowing the petitioner No.1-Unit to operate.

Separate status report was also filed by the Senior Superintendent of Police, Ferozepur, in which the details regarding the police force deployment at the site to avoid occurrence of any untoward incident is mentioned. It was also averred by the respondent-State that pursuant to the complaint received by the District Administration, water samples were drawn by a team of Punjab Pollution Control Board from different sites as indicated by the protesters and from villages Mansurwal, Maiwala Kalan, Rator Roohi and from factory premises of petitioner No.1-Unit on various dates i.e. 18.07.2022, 19.07.2022, 20.07.2022 and 23.07.2022 in the presence of the officers and about 200-250 protesters. It was stated that officials of the Civil Administration made all efforts to push back the protesters, however, their numbers kept on swelling and the District Administration could not persuade

the protesters to put an end to the protest. They have pointed out that there are more than 500 to 700 people staging protest including women and children. It reduces to 100-125 during night. It is pointed out that there are two dharna sites in the vicinity of the petitioner No.1-Unit and that there is sufficient police deployment of more than 400-450 police personnel. Reference is made to meetings held with the representatives of the protesters allegedly on as many as 50 occasions but to no avail.

It was pointed out that the protesters thereafter refused to accept the reports and approvals of the Punjab State Pollution Control Board.

It had been submitted by the parties that a Monitoring Committee was also constituted by the National Green Tribunal headed by the Hon'ble Mr. Justice Jasbir Singh (Retd.) to collect samples from various locations/sites for conducting tests. The representatives of the protesters are stated to have agreed that they shall adhere by the test results of the samples drawn by the Monitoring Committee sent by the National Green Tribunal.

The said aspect finds a specific mention in the previous orders passed by this Court. Time was thus granted to place on record the test results of the samples drawn by the Monitoring Committee constituted by the National Green Tribunal.

The test results were thereafter placed on record along with other Misc. Applications filed by the petitioners as per which the petitioner No.1-Unit was not found causing any pollution. The conclusions of the report were duly extracted in the interim order passed by this Court on 28.09.2022. The Government of Punjab did not controvert the test results and prayed for 02 weeks time to resolve the entire issue by opening up a dialogue.

The relevant part of the order is extracted as under:-

*“The instant petition raises a grievance where the lawful operations of an established industrial unit are being stalled by protestors alleging violation of environment norms. The plea raised by the petitioner is that it has all requisite environmental approvals, however, it is not being allowed to function due to failure of State to ensure Rule of law and giving all leverage to the protestors, even though their claim has no valid basis and is in clear violation of the guidelines given/issued by the Hon’ble Supreme Court and Division Bench of this Court about holding of protests.*

*The matter has been listed on various occasions and the State has been seeking time to find an amicable resolution of the issue and including test by the monitoring Committee of N.G.T.*

*On resumed hearing, learned counsel for the petitioners has handed over today in Court a report of Monitoring Committee constituted by the Hon’ble National Green Tribunal in O.A. No. 360 of 2018 in the matter of ‘Shree Nath Sharma Vs. Union of India and others’ and other environmental issues.*

*A detailed investigation with regard to the effluent discharge/ pollutant emission from the factory of the petitioners, if any, was conducted by the Monitoring Committee. The relevant extract of the same is reproduced hereinafter below:*

***“3.0 Overall Findings of the Monitoring Committee***

*Based on the discussion held with the officers of the various departments, village Panchayats and field visits made by the Monitoring Committee and collection of ground water samples, soil samples and reports submitted*

by the departments, the overall findings of the Monitoring Committee are as under:

1. The ground water sample collected from Samaadhi Bhagat Baba Duni Chand ji has been found containing faecal contamination, which may be due to domestic sources for its contamination.
2. The ground water sample collected from tubewell near parking area of the industry has been found containing faecal contamination may be due to domestic sources. The higher values of TSS, COD and Turbidity in the ground water samples due to presence inorganic compounds/constituents in the ground. The higher values of Iron and Lead in the ground water samples may be due to iron fitting in the pipeline laid for abstraction of ground water.
3. The ground water samples collected from the tubewell installed near new canal reservoir inside the industry has been found contaminated due to T.Coli and domestic source may be a source of contributing T.Coli. The higher values of Alkanity and Boron have been found due to geogenic conditions.
4. There is insignificant contamination in ground water in the tubewell near bottling plant inside the industry due to insignificant values of F.Coli parameter and organic parameters (BOD and COD).
5. The higher value of F.Coli and T.Coli found in the ground water samples collected from tubewell installed near effluent treatment plant inside the industry may be due to faecal contamination in ground water, which may be due to domestic sources. The contribution of lower concentration of BOD and COD may also be due to presence of F.Col and T.Coli parameters.
6. The higher value of COD, TSS and Turbidity in the ground water samples collected from the tubewell near

transport office inside the industry may be due to inorganic compounds/constituents. The higher value of Iron may be due to iron fitting in the pipeline laid for abstraction of ground water. The slight higher value of Boron in ground water sample may be due to geogenic reasons.

7. From the analysis results of ground water samples analyzed by all the three laboratories, indicate that ground water contamination is probably due to faecal contamination, which may be due to domestic sources. Possibility of discharge of industrial effluent in underground water is feeble as no such assessment from the analysis results has been found.”

Learned counsel appearing on behalf of the petitioner contends that at the initial stages, the investigations were conducted by the Punjab Pollution Control Board and no effluent discharge and/or pollutant emissions were attributed to the petitioner. It was, however on the demand of the protesters that the NGT Monitoring Committee had been requested to carry out the search/investigation. Samples were drawn from the places identified by the protestors. Even in the aforesaid investigation, the Monitoring Committee of the NGT has not found any effluent/polluting emission being discharged or emitted by the petitioner factory. He contends that the agencies and instrumentalities of the State are soft peddling the issue at the cost of rule of law. He places further reliance on the order dated 30.11.2018 passed by a Division Bench of this Court in **CWP-PIL NO.-40 of 2018** titled as **‘Mohit Kapoor Vs. State of Punjab and others**. The relevant extract of the same reads as under:

“However, as an interim measure, in order to ensure peace and tranquility, we issue the following directions

which will abide and shall be carried out by all the respective parties:

- i) The organizers who have planned to stage any Dharna, protest or demonstration either on 2<sup>nd</sup> December, 2018, as stated by them in the public notice or any other date, shall do so only after obtaining prior permission from the District Administration and shall carry out peaceful activities only at the place identified to carry out the same by the District Administration.
- ii) The police authorities shall ensure that those coming to participate in the agitation do not carry any weapons, which includes fire arms, knives, lathis and the likes.
- iii) The organizers shall give an undertaking to the Administration that they shall ensure peaceful protest/demonstration/agitation at the designated site only.
- iv) The police authorities and the State Government shall ensure videography of any protest/demonstration being held to the maximum extent possible.
- v) The police authorities keep a strict vigil and regulate entries from all the entry points of District Patiala.

The police authorities, the District Administration, the State Government and the organizers of the associations are further directed to ensure the compliance of the directions issued in this regard by the Hon'ble Apex Court in **Destruction of Public and Private Properties v. State of Andhra Pradesh and others (2009) 5 Supreme Court Cases 212.**”

A further reference is made to the judgment of the Hon'ble Supreme Court in the matter of **Amit Sahni Vs. Commissioner of Police & others** bearing **Civil Appeal**

No.3282 of 2020 and decided on 07.10.2020. The observations made in the aforesaid judgment are reproduced hereinafter below:

“18. Furthermore, we live in the age of technology and the internet where social movements around the world have swiftly integrated digital connectivity into their toolkit; be it for organising, publicity or effective communication. Technology, however, in a near paradoxical manner, works to both empower digitally fuelled movements and at the same time, contributes to their apparent weaknesses. The ability to scale up quickly, for example, using digital infrastructure has empowered movements to embrace their often-leaderless aspirations and evade usual restrictions of censorship; however, the flip side to this is that social media channels are often fraught with danger and can lead to the creation of highly polarised environments, which often see parallel conversations running with no constructive outcome evident. Both these scenarios were witnessed in Shaheen Bagh, which started out as a protest against the Citizenship Amendment Act, gained momentum across cities to become a movement of solidarity for the women and their cause, but came with its fair share of chinks - as has been opined by the interlocutors and caused inconvenience of commuters.

19. We have, thus, no hesitation in concluding that such kind of occupation of public ways, whether at the site in question or anywhere else for protests is not acceptable and the administration ought to take action to keep the areas clear of encroachments or obstructions

20. We are also of the view that the High Court should have monitored the matter rather than disposing of the Writ Petition and creating a fluid situation. No doubt, it is the responsibility of the respondent authorities to take

*suitable action, but then such suitable action should produce results. In what manner the administration should act is their responsibility and they should not hide behind the court orders or seek support therefrom for carrying out their administrative functions. The courts adjudicate the legality of the actions and are not meant to give shoulder to the administration to fire their guns from. Unfortunately, despite a lapse of a considerable period of time, there was neither any negotiations nor any action by the administration, thus warranting our intervention.*

21. *We only hope that such a situation does not arise in the future and protests are subject to the legal position as enunciated above, with some sympathy and dialogue, but are not permitted to get out of hand.”*

*Learned counsel for the petitioner contends that the respondent authorities have failed to point out any lapse and/or omission on the part of the petitioner, however, despite the same, the State agencies have not been able to uphold the rule of law. They have allowed a free hand to the protesters. The State Agencies want the Court to shoulder their obligation and to take responsibility for the actions required to be taken by them. Such conduct on the part of the State instrumentalities has been repeatedly deprecated by this Court as well as the Hon'ble Supreme Court. He contends that the petitioner unit/factory has been established with an investment of more than Rs.300 crores and financial institutional borrowing to the tune of Rs.200 crores. The salary bill of the petitioner unit/factory itself runs into Rs.1.5 crores and a further amount of Rs.2 crores per month has to be paid towards the installment against the institutional borrowings. The factory has remained closed for a period of two months due to inaction on the part of the respondent authorities resulting in immense loss to the petitioner unit. The respondent – State is not willing to shoulder*

*any obligation or liability for such loss that has occasioned solely due to inaction on the part of the respondent-State to enforce the rule of law.*

*Learned Advocate General Punjab prays for a further two weeks' time to amicably resolve the issue with dialogue.*

*In the interest of justice, adjourned to 11.10.2022.*

*However, it has been put without contradiction to the Advocate General Punjab that the State is required to take all such effective measures as are required to enforce the rule of law on its responsibility as guardian of all stake-holders and that the State is liable to compensate the petitioner for its inability to ensure protection of the rights of the petitioner to carry on business/trade and occupation within the statutory parameters. State cannot express its helplessness when decisions to uphold law are to be taken. In the event of State continuing to reflect its handicap or claim for more time, an aggrieved cannot be made to suffer financial bankruptcy and it must remain prepared to adequately compensate the victims of sovereign failure to uphold law.”*

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Taking stock of the totality of circumstances, an opportunity was granted to the respondent-State to resolve the issue as per law. It was noticed that inadequate measures had been put in place and inaction was being displayed by the State Machinery. It was a conspicuous display of failure of Administration and the supremacy of rule of law has been subjugated to the whims of the protesters.

The case was thereafter taken up on 11.10.2022 when the State sought yet more time to resolve the entire issue. It was granted 06 weeks time on its request to resolve the deadlock. The rights guaranteed under the

Constitution of India create an indefeasible obligation on the State to ensure protection thereof.

During the pendency of the case, additional applications were submitted by the petitioners pointing out that protesters have yet not been removed and it also submitted that petitioner No.1-Unit has already suffered a loss of more than Rs.17.80 Crores since the forced shut down. Certificate issued by the Auditors was also placed on record. It was averred that as a result of the ongoing deadlock, the petitioner No.1-Unit is on the brink of being declared a Non-Performing Asset (NPA) and that in addition to the financial loss suffered by the petitioner No.1-Unit, the State has itself lost revenue to the tune of Rs.84 Crores approximate towards the Excise and other Taxes. A further request was made that since the State Government has failed to take appropriate steps, Union of India, be impleaded as a party and the Paramilitary forces be deputed to protect the petitioner No.1-Unit. Reference was also placed on the order passed by this Court in the matter of **Ravinder Singh Dhull Vs. State of Haryana and others**, bearing **CWP No.19086 of 2017 dated 25.08.2017**. The relevant extract of the directions given in the aforesaid judgment is as under:-

*(i) All parties and every section of the society should maintain peace and harmony;*

*(ii) In case anybody indulges in any kind of violence, arson, loot, etc., he or they should be dealt with firmly by use of force, if necessary;*

*(iii) The police force and paramilitary forces would have free-hand to deal with the situation wherever and whenever required*

*against any individual or any section of the society or organization;*

*(iv) In case of need, the Army shall be deployed and made operational.*

*(v) The police force shall make arrangements forthwith for capturing every moment of untoward situation through videography by using video-cameras. Those who are indulging in any kind of violence, arson or breach of etc. shall be video-graphed and an FIR shall be registered against him/them;*

*(vi) In case any politician or anybody else including Ministers interferes in the enforcement of law, FIR be registered against him/them. In case of failure on the part of the police officer to register an FIR, similar action would be called against him;*

*(vii) No politician, leader, social-worker, spiritual leader, religious leader or any such organization shall make any provocative speech or statement, which may have the tendency to affect public order.”*

It was thus contended that the colossal failure of the State Machinery is at display and that when a situation is extra-ordinary, exemplary measures are required to be taken for restoration of normalcy and confidence of people in the rule of law.

Notice of the aforesaid Misc. Applications was issued to the respondents for the date already fixed i.e. today.

Written response on behalf of respondents No.4 to 6 by the Deputy Commissioner, Ferozpur, has been filed. The relevant part of the same reads thus:-

“(iv) That the Assistant Commissioner Excise, Ferozpur vide letter no. 1143/Exc. dated 09/11/2022 reported to this office that since the protest started the functioning of the factory is disrupted. It has further been reported that there are inflammables materials stored in the factory and proper maintenance of same is necessary which is not possible in the present circumstances. Therefore for proper safety arrangements, it is required that the said material is taken out of the factory. (Annexure R5).

On receiving of this report the protestors were contacted and with continuous engagement by the district administration, they have agreed to allow shifting out of the said material from the factory without causing any obstruction. Keeping in view aforesaid circumstances promptly orders had been passed for shifting of the inflammable material from the factory dated 17/11/2022 by constituting a committee to help out in shifting these materials. The process is ongoing and it is expected to be completed by 22/11/2022.

4. In addition to this Inspector General of Police, Ferozpur Range, Ferozpur also intervened in the matter. He had held meeting with undersigned, SSP, Ferozpur; SP (Investigation), Ferozpur; DSP, Zira; Environmental Engineer, PPCB, Faridkot; CMO, Ferozpur; Deputy Director Animal Husbandry, Ferozpur and Assistant Commissioner Excise, Ferozpur along with representatives of the protestors so to explain to them our position on various issues raised by them for protesting. He had also explained to them the order of the Hon'ble Court. However, the protestors had not lifted the protest so far.

5. That the district administration has approached the protestors time and again almost daily to make them aware about the contempt proceedings and the directions of this Hon'ble Court. However, the protestors have turned a blind eye

to the law and to the order of this Hon'ble Court and have continued their protest.

6. That it is worth mentioning due to the continuous efforts made by the district administration there is significant decline in the number of protestors present at the protest site. It has declined from the strength of 500-700 daily earlier to 50-60 daily now.

7. That the whole machinery of the State is working towards the implementation of the order of this Hon'ble Court. The efforts made by the district administration has yielded significant results and thus it is prayed that more time may be given to resolve the issue amicably so to ensure that any law and order situation may be avoided.

8. That an order under section 144 of the Code of Criminal Procedure 1973 was already issued by this office vide letter no. 138 dated 08-10-2022 to implement the order of Hon'ble Court dated 29-07-2022. (R-6).

*It is also prayed to this Hon'ble Court that this Hon'ble court may issue strict directions to the counsel on the behalf of protestors abide by the law and immediately shift the dhama as per the order of this Hon'ble Court.”*

A perusal of the aforesaid reply clearly shows that the District Administration acknowledges that protestors at site have illegally gathered and the District Administration has not been able to ensure their removal. It also shows that the protestors have openly disapproved of the rule of law and procedures prescribed therein for seeking redressal of their grievances, if any.

A fresh status report by way of affidavit of Additional Kanwardeep Kaur, IPS, Senior Superintendent of Police, Ferozepur, District Ferozepur, on behalf of respondents No.2, 3 and 5, has also been filed which is simply a narrative of the purported steps taken by the police to avoid any

untoward incident. She has also specifically admitted that the use of force is not being undertaken to avoid any untoward incident and admits that the protests are unlawful and in violation of the restrictions imposed under Section 144 of the Code of Criminal Procedure.

The entire narrative in the response filed by the District Administration was about steps being taken by it as a measure to pat their back all while admitting that the protesters are still at the site and that the petitioner No.1-Unit has not been able to carry on its operations for last more than 04 months for no fault.

The Advocate General appearing on behalf of the State of Punjab prayed for being granted some more time and said that best efforts are being undertaken by the State for removal of the protesters and that they would be able to successfully convince the residents to allow the petitioner No.1-Unit to carry on its operations.

A pointed query was raised to the Advocate General appearing for the State of Punjab to point out if the petitioner No.1-Unit in question has been established in violation of any law, sanctions or approvals to which the reply has been in the negative. Hence, the installation, commencement and operations of the petitioner No.1-Unit are not alleged to be in violation of law.

The Division Bench of this Court had already issued various directions about the manner in which protests/demonstrations can be staged vide order dated 30.11.2018 in the matter of **Mohit Kapoor Vs. State of Punjab and others CWP-PIL NO.-40 of 2018** by placing reliance on the judgment of the Hon'ble Supreme Court in the matter of **Destruction of Public and Private Properties in RE – Petitioners Vs. State of A.P. and**

others, reported as 2009 (5) SCC 212. Further reliance was also placed on the judgment of the Hon'ble Supreme Court in the matter of Amit Sahni Vs. Commissioner of Police & others bearing Civil Appeal No.3282 of 2020, decided on 07.10.2020, the directions whereof have also been extracted. Both the said judgments and directions were duly extracted in the orders passed on earlier occasions.

The Hon'ble Supreme Court had also noticed in precedent judgment that the Civil Administration has been crumbling to take a decision or responsibility for the decisions and instead allow the problem to swell to create compelling circumstances for the Court to shoulder the responsibility of their inaction. Such a growing tendency has often led to a face-off with the Administration which prefers to allow escalation of a situation and thus compromising the supremacy of law and to thereafter claim its helplessness. While the command of the Sovereign must resonate authority, the Administration has meekly surrendered itself to the whims of Association which may stage protests anywhere and all over the State. The tendency has been repeatedly growing. So much so it was reported in the Newspaper that nearly 70 lakhs men hours were lost in the State of Punjab in the various protests last year alone. Although such claims may be unverified and may not be supported by any quantified data, however, it is invariably startling and shocks the judicial conscience qua the state of affairs and the harassment caused to the general Public-who may not stand up in equal numbers to protest against the same but silently suffer. The clamour of the some cannot leave the Court to turn a deaf ear to those not crying or airing their grievances and it cannot be construed that they have none.

The Hon'ble Supreme Court in the matter of *In RE Destruction of Public and Private Properties Vs. State of A.P. and others (supra)* examined the issue from different perspectives so as to strike a balance between the conflicting right to carry on trade and business and the right to assemble peacefully without arms to stage protests. In the absence of Legislation, various guidelines were issued by the Hon'ble Supreme court. The same are extracted as under:-

*“7. In the absence of legislation the following guidelines are to be adopted to assess damages:*

*(I) Wherever a mass destruction to property takes place due to protests or thereof, the High Court may issue suo motu action and set up a machinery to investigate the damage caused and to award compensation related thereto.*

*(II) Where there is more than one state involved, such action may be taken by the Supreme Court.*

*(III) In each case, the High Court or Supreme Court, as the case may be, appoint a sitting or retired High Court judge or a sitting or retired District judge as a Claims Commissioner to estimate the damages and investigate liability.*

*(IV) An Assessor may be appointed to assist the Claims Commissioner.*

*(V) The Claims Commissioner and the Assessor may seek instructions from the High Court or Supreme Court as the case may be, to summon the existing video or other recordings from private and public sources to pinpoint the damage and establish nexus with the perpetrators of the damage.*

*(VI) The principles of absolute liability shall apply once the nexus with the event that precipitated the damage is established.*

*(VII) The liability will be borne by the actual perpetrators of the crime as well as organisers of the event giving rise to the liability - to be shared, as finally determined by the High Court or Supreme Court as the case may be.*

(VIII) Exemplary damages may be awarded to an extent not greater than twice the amount of the damages liable to be paid.

(IX) Damages shall be assessed for:

(a) damages to public property;

(b) damages to private property;

(c) damages causing injury or death to a person or persons;

(d) Cost of the actions by the authorities and police to take preventive and other actions.

(X) The Claims Commissioner will make a report to the High Court or Supreme Court which will determine the liability after hearing the parties.”

Similar directions were reiterated by the Hon'ble Supreme Court in the matter of **Kodungallur Film Society and another Vs. Union of India and others, reported as 2018 (10) SCC 713**. Various structural and preventive measures were suggested by the Hon'ble Supreme Court. The relevant parts of the directions contained in the order of the Hon'ble Supreme Court are extracted as under:-

“16. There are overlapping areas of directions which albeit apply to the situations referred to in the concerned decision. For the purpose of the present writ petition, we have no hesitation in observing that the dispensation can be similar to the one decided recently in *Tehseen Poonawalla (supra)*, for which reason the guidelines delineated in the said decision must apply proprio vigore in respect of peaceful protests turning into mob violence, causing damage to public and private properties.

A. *Ex abundantia cautela*, we may hasten to clarify that similar interim measures will operate in respect of any peaceful protest turning into mob violence, causing loss of life or damage to

*public and private properties, including violence designed to instill fear in the minds and terrorise the common man, in the absence of any law to that effect. The recommendations / directions elucidated hereunder are not exhaustive but only to set out broad contour of the measures required to be taken and are in addition to the recommendations/directions given in In Re: Destruction of Public and Private Properties (supra):*

**A. STRUCTURAL AND PREVENTIVE MEASURES**

*a) In addition to the responsibilities ascribed to the Nodal Officer(s) as set out in Tehseen Poonawalla (supra), the said Nodal Officer(s) would also be responsible for creating and maintaining a list containing the various cultural establishments, including theatres, cinema halls, music venues, performance halls and centres and art galleries within the district, and pin point vulnerable cultural establishments and property which have been attacked/damaged by mob violence over the past 5 (five) years. This list would be updated on a regular basis to account for any new openings/closings of establishments.*

*b) In addition to the prohibition against weaponry laid down in paragraph 12 (II) of In Re: Destruction of Public and Private Properties (supra), any person found to be carrying prohibited weaponry, licensed or otherwise, during protests/demonstrations would prima facie be presumed to have an intention to commit violence and be proceeded in that regard as per law.*

*c) The State governments should set up Rapid Response Teams preferably district-wise which are specially trained to deal with and can be quickly mobilized to respond to acts of mob violence. These teams can also be stationed around vulnerable cultural establishments as mentioned hereinabove.*

*d) The State governments should set up special helplines to deal with instances of mob violence.*

*e) The State police shall create and maintain a cyber-information portal on its website and on its internet-based application(s) for reporting instances of mob violence and destruction of public and private properties.*

***B. REMEDIES TO MINIMIZE, IF NOT EXTIRPATE, THE IMPENDING MOB VIOLENCE***

*a) The Nodal Officer(s) will coordinate with local emergency services, including police stations, fire brigades, hospital and medical services and disaster management authorities during incidents of mob violence in order to have a comprehensive and consolidated response to the situation.*

*b) The authorities must consider the use of non-lethal crowd-control devices, like water cannons and tear gas, which cause minimum injury to people but at the same time, act as an effective deterrent against mob force.*

*c) The authorities must ensure that arrests of miscreants found on the spot are done in the right earnest.*

*d) The Nodal Officer(s), may consider taking appropriate steps as per law including to impose reasonable restrictions on the social media and internet-based communication services or mobile applications, by invoking enabling provisions of law during the relevant period of mob violence, if the situation so warrants.*

*e) The Nodal Officer(s) must take coordinated efforts and issue messages across various audio-visual mediums to restore peace and to stop/control rumours. This can extend to issuing communications on local TV channels, radio stations, social media like Twitter etc.*

**C. LIABILITY OF PERSON CAUSING VIOLENCE**

a) *If a call to violence results in damage to property, either directly or indirectly, and has been made through a spokesperson or through social media accounts of any group/organization(s) or by any individual, appropriate action should be taken against such person(s) including under Sections 153A, 295A read with 298 and 425 of the Indian Penal Code, 1860.*

b) *In instances where a group/organisation has staged a protest or demonstration resulting in violence and damage to property, the leaders and office bearers of such group/organisation should physically present themselves for questioning, on their own, within 24 (twenty four) hours, in the police station within whose jurisdiction the violence and damage occurred. Any such person(s) failing to present himself/herself in such manner without any sufficient reason should be proceeded against as a suspect and legal process must be initiated forthwith against him/her including for being declared an absconder in accordance with law.*

c) *A person arrested for either committing or initiating, promoting, instigating or in any way causing to occur any act of violence which results in loss of life or damage to property may be granted conditional bail upon depositing the quantified loss caused due to such violence or furnishing security for such quantified loss. In case of more than one person involved in such act of violence, each one of them shall be jointly, severally and vicariously liable to pay the quantified loss. If the loss is yet to be quantified by the appropriate authority, the judge hearing the bail application may quantify the amount of tentative damages (which shall be subject to final determination thereof by the appropriate authority) on the principle stated in paragraph 15 of the decision in *In Re: Destruction of Public and Private**

*Properties (supra), after hearing the submissions of the State/agency prosecuting the matter in that regard.*

***D. RESPONSIBILITY OF POLICE OFFICIALS***

*a) When any act of violence results in damage to property, concerned police officials should file FIRs and complete investigation as far as possible within the statutory period and submit a report in that regard. Any failure to file FIRs and conduct investigations within the statutory period without sufficient cause should be considered as dereliction of duty on behalf of the concerned officer and can be proceeded against by way of departmental action in right earnest.*

*b) Since the Nodal Officer(s) holds the overall responsibility in each district to prevent mob violence against cultural establishments and against property, any unexplained and/or unsubstantiated delay in filing FIRs and/or conducting investigations in that regard should also be deemed to be inaction on the part of the said Nodal Officer(s).*

*c) With reference to the videography mentioned in paragraphs 5 (iv), 10 and 12 of In Re: Destruction of Public and Private Properties (supra), the officer-in-charge should first call upon from the panel of local video operators maintained by the concerned police station to video-record the events. If the said video operators are unable to record the events for whatever reason or if the officer-in-charge is of the opinion that supplementary information is required, then he/she can also call upon private video operators to record the events and request the media for information on the incident in question, if need be.*

*d) Status reports of the investigation(s)/trial(s) concerning such offences as set out hereinabove, including the results of such trial(s), shall be uploaded on the official website of the concerned State police on a regular basis.*

*e) In the event of acquittal of any person(s) accused of committing such offences as set out hereinabove, the Nodal Officer(s) must coordinate with the Public Prosecutor for filing appeal against such acquittal, in the right earnest.*

***E. COMPENSATION***

*a) The person/persons who has/have initiated, promoted, instigated or any way caused to occur any act of violence against cultural programmes or which results in loss of life or damage to public or private property either directly or indirectly, shall be made liable to compensate the victims of such violence.*

*b) Claims arising out of such acts of violence should be dealt with in the manner prescribed in paragraph 15 of In Re: Destruction of Public and Private Properties (supra).*

*c) This compensation should be with regard to the loss of life or damage done to any public or private properties, both movable and immovable.”*

It is apparent from the perusal of the above that the authorities have been called upon to ensure appropriate steps against the miscreants and also to impose liability against the persons enticing violence or causing damage to property either directly or indirectly, under the garb of protests or demonstrations. Responsibilities of the police officials have also been fastened in the event of failure on their part to file FIRs and to conduct investigations within the statutory powers as prescribed and they have been held responsible of their failure to prevent such mob violence. Apart therefrom, the aspect of compensation has also been noticed by the Hon'ble Supreme Court in the aforesaid judgment.

Invariably, the Hon'ble Supreme Court through a catena of judgments has recognized the rights of individuals and citizens to hold peaceful demonstration to air their grievances and to ensure that their grievances are heard, however, such right cannot be deployed as a weapon to truncate the rights guaranteed to the fellow citizens under the Constitution. The protesters do not derive any superior right merely because of their capacity to assemble together and to make themselves heard. Those who are silent and suffer cannot be deemed to have waived their rights to carry on their trade, occupation or business. Their sufferance cannot be interpreted as their support. The process of law stands not only for those who make themselves heard but it also must discharge its obligation towards those who remain unheard. Evidently, the State has claimed to put a mechanism as renders the assembly illegal and unlawful, yet, the authorities stand helpless and have been saving time with no commitment or intent.

It is not disputed by the learned Advocate General appearing for the State of Punjab that the guidelines and directions issued by the Division Bench of this Court as regard the manner in which the protests are to be staged have been violated and that the guidelines as laid down by the Hon'ble Supreme Court in the catena of judgments noticed above have also not been complied with. The officials also cannot plead ignorance of the same. Consequently, this Court is left with little choice but to take certain decisions as would act as a catalyst and instill a sense of responsibility in the Administration.

It has also become essential to get an assessment of the damages claimed to be suffered for which an additional deposit is to be done. The deposit is without prejudice to the fact that public money cannot be deployed

to fund the illegal activities of the protesters. Public money is meant for development and to sub-serve larger public interest and is not to be used to condone the conscious illegal acts and fund the mist-adventures of the violators of the rule of law. It is time that the authorities set in place an appropriate mechanism so that the violators causing damage to public or private properties feel the heat and learn to protest with responsibility and are held accountable for the consequences of their actions.

The process of law and the Sovereign cannot project a fractured face. When it unwields its authority, the Sovereign as well as rule of law loses credibility. Once the Sovereign authority loses its credibility, the paramountcy of the judicial process is lost and the rule of law is undermined. The Officers in the Administration responsible for ensuring protection of rights of all competing interests have failed to show any grit and determination. Such non-committal approach can hardly be perceived as advancing any cause of justice.

Incompetence creating ruse to seek refuse in law to shield himself at the cost of Public Exchequer cannot be allowed to be normal. Public money is held in trust and not to finance failure of Administration. It has thus become imperative to issue notice to show cause to the Additional Chief Secretary (Home), Government of Punjab, Additional Director General of Police (Law and Order), Punjab, the Deputy Commissioner, Ferozpur as well as the Senior Superintendent of Police, Ferozpur, as to why the proceedings for contempt of the orders, directions and guidelines issued by the Hon'ble Supreme Court as well as Division Bench of this Court in the judgments noticed above, be not initiated against them.

In addition thereto, the following directions are also issued:-

- (i) The State of Punjab shall deposit an additional amount of Rs.15 Crores with the Registry of this Court within a period of one week from today;
- (ii) The Deputy Commissioner, Ferozpur, shall file an affidavit stating the details of the protesters at site who have stalled the operations of the petitioner No.1-Unit;
- (iii) The details of the properties held by such protesters and of their leaders shall also be furnished in the above said affidavit; and
- (iv) The damage/loss suffered by the petitioners or any other claimant be also got ascertained.

Learned counsel for the parties agree that a Committee may be nominated by this Court for assessing and evaluating the loss by petitioner or others in view of judgments already passed before any further action. Accordingly, a Committee headed by a former Judge of this Court and comprising of representative of State is being constituted with consent of parties. The said Committee shall be at liberty to associate a Chartered Accountant/Auditor of their choice to assess the validity of the claims made before it.

The Committee shall comprise of the following”

- 1 Hon’ble Mr. Justice R.K. Nehru (Retd.) **(Chairman)**
- 2 A nominee of the State Government not below the rank of Additional Commissioner in the Department of Excise and Taxation **(Official Member)**

and

- 3 Sh. Babbar Bhan, Advocate, P-19/1997, Mobile No.94170-81591, Email I.D. [babbarbhanadv@yahoo.co.in](mailto:babbarbhanadv@yahoo.co.in) GH-39, 1-A, (Mansa Devi Complex (MDC), Sector 5, Panchkula, Haryana.

**(Non-official Member)**

The Committee shall take all claims and objections into consideration before submitting its report and be guided by the judgment of the Hon'ble Supreme Court for assessment thereof.

The fee of the Chairman of the Committee is quantified at Rs.5,00,000/- (Rupees Five Lakhs), while the fee of the non-official member is quantified at Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand). The Committee may nominate an Account/Chartered Accountant/Auditor for their aid and assistance subject to maximum expenditure of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand). The above expenses are to be paid by the State of Punjab.

The Committee shall submit its report of the estimated loss/damages within a period of **Two Months** to this Court.

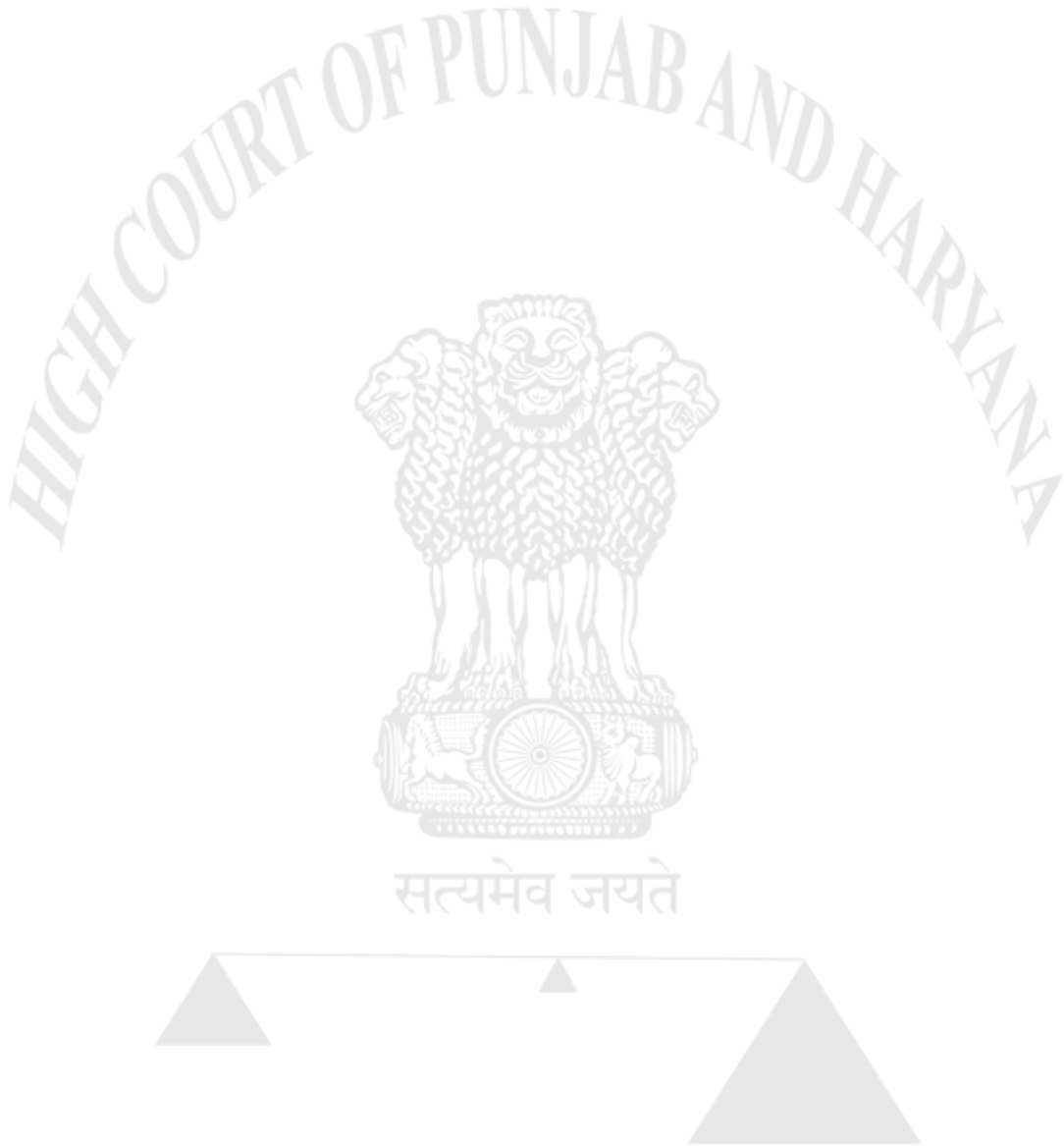
The Committee may fix a date for site visit to record the objections of the protesters, if any, and the District Administration shall ensure that adequate publication and arrangement for the said visit is done so that the persons affected may submit their claim/objections.

To come up for further consideration on the steps taken by the Administration on 20.12.2022.

The status report/response be also filed by the State by the next date of hearing.

November 22, 2022.  
*raj arora*

(VINOD S. BHARDWAJ)  
JUDGE



**CWP-16500-2022 ( O&M)**

M/S MALBROS INTERNATIONAL PVT. LTD. AND ANR.  
V/S

STATE OF PUNJAB AND OTHERS

\*\*\*\*\*

Present :- Mr. R.S. Rai, Sr. Advocate with  
Mr. Sandeep Goyal, Advocate,  
Mr. Rishab Singla, Advocate,  
Ms. Vidisha Swarup, Advocate and  
Mr. Sachin Jain, Advocate  
for the petitioners.

Mr. Vinod Ghai, Advocate General, Punjab assisted by  
Mr. Aman Pal, Addl. A.G. Punjab,  
Mr. Saurav Verma, Addl. A.G. Punjab.  
Mr. Sanjay Sabharwal, Addl. A.G. Punjab.

Mr. R.S. Bains, Sr. Advocate with  
Mr. Amarjeet, Advocate and  
Mr. Aman Raj Bawa, Advocate  
for respondent No.9

Ms. G.K. Maan, Sr. Advocate with  
Mr. A.P.S. Mann, Advocate,  
Mr. Gursharan Singh, Advocate,  
Mr. Akashdeep Singh, Advocate,  
Ms. Simrat Kaur, Advocate,  
Mr. A.J.S. Gill, Advocate,  
Mr. Gursewak Singh, Advocate and  
Mr. Sunil Kumar, Advocate  
for respondent No.2.

Ms. Saigeeta Srivastava, Advocate  
for respondent No.12-Union of India.

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This is in continuity with the orders passed earlier by this Court including the order dated 29.07.2022 to shift the protests 300 meters from factory premises. The matter has been take up on resumed hearing on various dates when the State assured to evolve mechanism for resolution of dispute and to ensure compliance of directions issued by the Court for holding of protest. The grievance raised by the petitioner is that the

protestors are not allowing the petitioner to run his unit alleging pollution even though it has all necessary statutory approval by Punjab Pollution Control Board. Even the team constituted by National Green Tribunal had drawn samples from the locations identified by the protestors and nothing incriminating could be linked to the industrial activity of the petitioner unit. It was also espoused by the petitioner that Division Bench of this Court has passed various directions in the matter of “*Mohit Kapoor versus State of Punjab*” bearing *CWP-PIL No.40 of 2018* and to ensure compliance of the directions issued by the Hon'ble Supreme Court in the matter of “*Destruction of Public & Private properties versus State of Andhra Pradesh and Others (2009) 5 Supreme Court Cases 212.*”

Learned Advocate General, Punjab contends that State has already formulated four Committees, in consultation with the protestors, to look into various grouses espoused by the protestors so as to amicably resolve the issue. The Committees shall give their report as regards the various aspects espoused by the protestors and also as to whether the grievances espoused are an outcome of the industrial activity carried out by the petitioner unit or not.

Learned Advocate General submits the details of the Committees and their scope as under:-

*“1. A committee has been formed as follows to investigate the points related to water pollution and public hearing:-*

- (i) Chairman, Punjab Pollution Control Board.*
- (ii) Principal Chief Conservator Forest.*
- (iii) Member Secretary, Punjab Pollution Control Board.”*

2. *A committee has been formed as follows to investigate the increasing cases of cancer, hepatitis-B etc., in the villages surrounding the factory:*

- (i) Dr Rakesh Kakkar, Professor & Head, Department of Community Medicine, AIMS, Bathinda.
- (ii) *Dr PVM Lakshmi, Professor of Epidemiology, Department of Community Medicine & School of Public Health, PGIMER, Chandigarh.*
- (iii) *Dr Ravinder Khaiwal, Professor (Environmental Health). Department of Community Medicine & School of Public Health, PGIMER, Chandigarh.*
- (iv) *Dr. Gagandeep Singh Grover, Assistant Director, Department of Health and Family Welfare, Punjab.*

3. *A committee has been formed as follows to investigate the damage to soil and crops:-*

- (i) *Director of Research, PAU.*
- (ii) *Head, Department of Soil Science, PAU*
- (iii) *Head, Department of Soil & Water Engineering, PAU.*

4. *A committee has been formed as follows to investigate the loss of animals:-*

- (i) *Dr. S.S. Randhawa, Director Vety Clinics, GADVASU*
- (ii) *Dr. Jasbir Bedi, Director Centre for One Health, GADVASU*
- (iii) *Dr. S.K.Sharma, Professor and Head Department of Vety Pharmacology, GADVASU.”*

He further submits that the reports by the above Committees shall be received within a period of two weeks and appropriate action in

terms of the reports shall be taken.

Vide order dated 22.11.2022 contempt notices had also been issued to the official respondents to show case as to why proceedings for contempt be not initiated against the officials for disobedience of the directions issued by the Division Bench of this Court in relation to holding of protest, for which repeated opportunities had been granted to the respondents.

Registry is directed to tag the contempt as a separate number and list the same before an appropriate Bench after obtaining orders from Hon'ble the Chief Justice. Let the contempt be dealt independently by the Contempt Bench. Copies of the interim orders passed in this writ along with the affidavit filed by the respondents be also tagged with the contempt file.

Adjourned to 28.02.2023.

The State shall file an affidavit within a period of 04 weeks, by an officer not below the rank of Additional Chief Secretary in the Department of Home Affairs as regards the time frame within which the stalemate can be resolved and the *inter se* rights of the parties ascertained so as to bring the situation in conformity with the judgment passed by the Division Bench of this Court. He shall also aver as to whether the State is in a capacity and/or a position to ensure that the protest/industrial activity is brought in conformity with law as declared through precedent judgments and noticed in earlier orders.

**(VINOD S. BHARDWAJ)**  
**JUDGE**

**DECEMBER 23, 2022**

*Vishal sharma*



# 206

**PUNJAB POLLUTION CONTROL BOARD**  
Zonal Office, Street No. 12, Power House Road, Bathinda  
Website:- www.ppcb.gov.in

Office Dispatch No :

549

Registered/Speed Post

Date:

8/2/23

Industry Registration ID:

R20FZR888417

Application No :

20710752

To,

Pawan Bansal  
Village Mansoorwal  
Zira, Ferozepur-142047

Subject: Refusal of consent to operate under the provisions of Water Prevention and Control of Pollution) Act, 1974 as amended.

### 1. Particulars of Certificate

Consent to Operate Certificate No.	CTOW/Renewal/FZR/2023/20710752
Date of issue :	03/02/2023
Date of expiry :	Not Applicable
Certificate Type :	Refusal
Previous CTO No. & Validity :	From: To:

### 2. Particulars of the Industry

Name & Designation of the Applicant	Pawan Bansal, (Cao)
Address of Industrial premises	Malbros International Pvt Limited, Vill. Mansoorwal, tehsil Zira, Distt Ferozepur Punjab, Ferozepur, Ferozepur-142047
Capital Investment of the Industry	26338.32 lakhs
Category of Industry	Red
Type of Industry	1060-Distillery ( molasses / grain / yeast based)
Scale of the Industry	Large
Office District	Ferozepur

"This is computer generated document from OCMMS by PPCB"

Malbros International Pvt Limited, Vill. Mansoorwal, tehsil Zira, Distt Ferozepur Punjab, Ferozepur, Ferozepur, 142047

Page 1

Whereas, it is mandatory on the part of the industry to obtain the consent of the Board to operate its outlet as required u/s 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 for discharge of effluents arising from the premises of the industrial unit;

And whereas, it is also mandatory on the part of the industry to provide adequate and appropriate effluent treatment facilities so as to contain the various pollutants in the effluent discharged by the industry, within the standards laid down by the Board;

And whereas, the industry was granted varied consent to operate by the Board under the Water (Prevention and Control of Pollution) Act, 1974 vide no. CTOW/Varied/FZR/2021/16885572 dated 12/11/2021, valid upto 31/12/2022 for the operation of the unit for production of Grain Based Anhydrous Denatured Ethanol/ENA/RS/Industrial Alcohol Plant @ 280 KLD, Animal feed Supplement /Cattle Feed/Poultry Feed @ 140 MTD, Co-generation plant @ 12 MW alongwith CO<sub>2</sub> @ 125 MTD by using Nakku (Grain unfit for human consumption) / Bajra/Maize/Sorghum @ 650 MTD as raw material, subject to certain general and special conditions as mentioned therein;

And whereas, the industry had applied for obtaining the renewal of consents to operate under the Water (Prevention and Control of Pollution) Act, 1974, which was returned by the Board with the request to resubmit the application under the said Act as and when the industry resumes its operation to verify the latest status of the industry;

And whereas, the industry has again applied for obtaining the renewal of consent to operate under the Water (Prevention and Control of Pollution) Act, 1974;

And whereas, from the further thorough perusal of the application submitted by the industry, it is observed that the application is also not complete in all respects and is lacking in the production of substantial material to show compliance to the conditions of the consents already imposed by the Board in the consent to operate earlier granted under the provisions of the Water (Prevention and Control of Pollution) Act, 1974;

And whereas, the industry has failed to submit the permission for utilization of 1000 KLD of canal water from the concerned authorities as per the contents of the application;

And whereas, the industry has not submitted record relating to the operation of effluent treatment plant i.e. record of quantity of chemicals and energy utilized for treatment and sludge generated from treatment so as to satisfy the Board regarding regular and proper operation of Effluent Treatment Plant (ETP);

And whereas, the industry has not submitted calibration certificate of Online Continuous Effluent Monitoring System (OCEMS) installed in its premises;

And whereas, the industry has not submitted six monthly compliance reports with effect from April 2022 for conditions imposed in the Environmental Clearance granted to the industry vide letter dated 15.01.2018 by Ministry of Environment, Forest and Climate Change (MoEF&CC);

And whereas, the industry has not submitted any record with regard to utilization of 2.5% of the total project cost for Enterprise Social Commitment based on public hearing issues and item-wise details along with time bound action plan;

And whereas, the industry has not submitted any record with regard to Occupational health surveillance of the workers in accordance with Factories Act, for the year 2022-23;

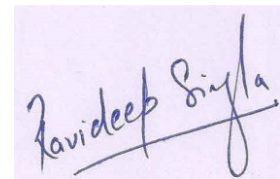
And whereas, the industry has not submitted any site plan depicting location, extent of area developed under green belt and furthermore details with regard to type of plants/trees planted in green belt;

And whereas, the water balance details submitted in the application form with respect to quantity of raw water to be consumed viz-a-viz raw water consumption details in the process/utilities are not in order;

And whereas, the above details show that the industry has failed to comply with the provisions of the Water (Prevention and Control of Pollution) Act, 1974;

And whereas, the matter has been considered by the Board and it has been decided to refuse the consent to operate applied by the industry under the Water (Prevention and Control of Pollution) Act, 1974;

As such, in exercise of the powers conferred under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, the consent to operate applied by the industry under the Water (Prevention and Control of Pollution) Act, 1974, is hereby, refused due to the reasons recorded herein above.



03/02/2023

**(Ravideep Singla)**  
AEE

For & on behalf

of

**(Punjab Pollution Control Board)**

**Endst. No.:**

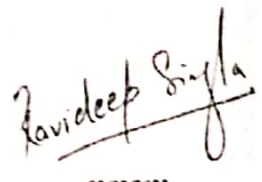
**Dated:**

SSD

08.02.2023.

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A copy of the above is forwarded to the following for information and necessary action please:  
Environmental Engineer, Punjab Pollution Control Board, Regional Office, Faridkot.



03/02/2023

**(Ravideep Singla)**  
**AEE**

*For & on behalf*  
*of*

**(Punjab Pollution Control Board)**

