

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**  
**PRINCIPAL BENCH AT NEW DELHI**  
**ORIGINAL APPLICATION NO. 206 OF 2020**

**IN THE MATTER OF:**

**VINIT KUMAR**

**...APPLICANT**

**VERSUS**

**M/s SIR SHADILAL DISTILLERY & CHEMICAL**

**WORKS PVT. LTD & ORS.**

**...RESPONDENTS**

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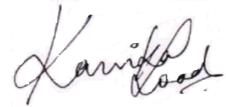
THROUGH



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**PLACE: NEW DELHI**

**DATE: 6.01.2021**

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**Submissions by the Applicant to the Joint Report by UPPCB and CPCB**

- 1) The Applicant had filed the above application under Sections 14 and Section 15 read with Section 20 of the National Green Tribunal Act, 2010 raising a substantial issue related to the environment regarding the pollution caused by a Molasses based distillery (250KLPD) at village Mansurpur, tehsil Khatauli, district Muzaffarnagar in Uttar Pradesh owned and operated by Respondent No. 1, Sir Shadilal Distillery and Chemical Works.
- 2) That by order dated 24.09.2020, this Hon'ble Tribunal directed for a joint report by the CPCB and UPPCB upon the allegations raised by the Applicant:

*"1. Grievance in this application is that Respondent No. 1, M/s Sir Shadilal Distillery and Chemical Works is operating at Mansurpur, District Muzzafarnagar, U.P., in violation of environmental norms. There is violation of Environmental Clearance (EC) condition requiring Zero Liquid Discharge (ZLD) and setting up green belt. Concentrated untreated spent wash is being illegally stored. Closure order was issued by the Collector under the Water (Prevention and Control of Pollution) Act, 1974 but the State PCB suspended the same. The matter was earlier considered by this Tribunal on 27.05.2019 in O.A. 823/2017. The Tribunal directed joint inspection by the CPCB and the State PCB and if the unit was non-compliant, the unit was to be closed. However, the said order has not been complied with.*

*2. In view of above, before we consider the matter further, it will be appropriate to require a joint factual and action taken report from the CPCB and the State PCB within two months by e-mail at*

*judicialngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."*

3) Thereafter, the UPPCB and the CPCB has filed a report based on an inspection of the unit and following issues emerge out it:

- a) The Report has found the allegations raised by the Applicant to be true correct. It is submitted that the Joint Inspection Report has clearly found that Respondent No. 1 is releasing untreated industrial effluent into the Mansurpur drain which connects to the Kali river.
- b) The earlier inspection done by the CPCB dated 15.06.2019 also found noncompliance of the NOC granted to the unit. The present Report has found similar non-compliances and violations of the consent and EC granted. However, as per the order dated 27.05.2019 (in OA 804 of 2017) of this Hon'ble tribunal, the UPPCB ought to have directed for the unit to be shut down and only re-opened the same after an order from this Hon'ble Tribunal. However, the UPPCB has allowed the unit to function till date, in violation of environmental laws.
- c) The Joint Committee Report shows that Respondent No. 1 is a persistent violator. As per the inspection by the CPCB dated 15.06.2019, Show Cause Notice dated 1.01.2019, Joint Report by UPPCB and CPCB dated 14.11.2019, inspections by the UPPCB dated 21.07.2020, 28.07.2020, 29.07.2020 and finally the present report dated 26.11.2020 have all shown several violations in the functioning of the unit. The release of untreated industrial effluent in the Mansurpur drain of pH-4.5; BOD-1268 mg/l; COD-2392 mg/l; TSS-294 mg/l and TDS- 1828 mg/l which is far beyond the maximum limits prescribed under the Environment (Protection) Act, 1986. However, despite these consistent violations the UPPCB has not initiated any prosecution and taken penal action against the unit.

- d) The Joint Committee Report has recommended the imposition of environmental compensation for the violations, however the same has been incorrectly calculated. The CPCB first noticed violations in the inspection carried out on 15.07.2019, and sent a notice on 1.10.2019. Thus, the EC has to be calculated from July 2019, when the violations were first observed, till the date of the next order in January, 2021 so as to comply with the Polluter Pays Principle.
- e) That since this joint inspection was carried out in November, 2020 the condition of the area has worsened as the lagoons, tanks, kuchha pits are completely filled and overflowing which is a very important concern in light of the rains which will cause even more pollution. Thus, in light of the above, the unit should be closed down.
- 4) The Joint Inspection Report has given the following observations:

*"6. During the visit, long flexible pipelines were found at CPU (condensate polishing unit) and within the unit premises. The Unit shall remove all the flexible pipelines from the unit premises as during the UPPCB visit on 21.07.2020, the unit was found discharging into the drain through flexible pipelines.*

***9. The Unit has 05 lagoons/tanks for the storage of spent wash near bio-compost yard within the premises and one storage tank at process area. The storage capacity of the 05 lagoons/tanks is more than the consented storage capacity granted by UPPCB i.e. more than 30 days equivalent of effluent generation which is violation of consent condition. All the lagoons and tanks were found filled with coloured effluent upto 60%-80% of their storage capacity during the visit. Sample analysis of one lagoon showed pH-5.2, BOD- 62,250 mg/l, COD-1,84,200 mg/l, TS- 2,08,870 mg/l.***

***10. The bio-compost yard was found non-operational during the visit. The covered shed of the bio-compost yard was found totally damaged during the visit.***

11. The Unit has installed two piezometers at the bio-compost yard, however as per the CPCB guidelines minimum four piezometers are required.

15. The joint team collected water sample from the drain (downstream of the unit). The analysis result of the drain showed pH-4.5; BOD-1268 mg/l; COD-2392 mg/l; TSS-294 mg/l and TDS- 1828 mg/l.

16. The high BOD & COD and low pH in the drain indicates contamination of the drain through industrial discharge. At the upstream side, two industries are located, one is Distillery (M/s Sir Shadi Lal) and other is Sugar mill (M/s Dhampur Sugar mill). During the visit, the drain was **found having substantial amount of sludge also and effluent with high BOD/COD & low pH indicates that the industry intermittently discharging untreated effluent in this drain. The drain requires to be de-sludge at least 3 km from the unit in a scientific manner and cost of the de-sludging & its disposal shall be borne by the industry.**

17. The Environmental Clearance (EC) for expansion in Molasses based Distillery (100 KLD to 250 KLD) was issued by MoEF&CC vide letter dated 07.01.2020 (Annexure-8) to the unit and as per the EC condition no. 6 "The concentrated spent wash is being used in the plant for bio-composting. Bio-composting shall be stopped and incineration route will be adopted within one year". **As per the EC condition no. 10 (iv) "concentrated spent wash shall be incinerated and not to be released in open space. The existing unit shall install incineration boiler within one year to ensure complete incineration in place of biocomposting."**

#### 4.3 Conclusion of the joint team of CPCB and UPPCB

During the joint visit of CPCB and UPPCB on 26.11.2020, **the drain water quality results showed high BOD /COD value and low pH indicating industrial discharge resulting into contamination of the drain which meets Kali River (West) onwards and Kali River (West) is a tributary of Hindon River.** The drain was carrying substantial amount of sludge which

requires to be de-sludge upto 3 km and cost should be borne by the industry. During the joint visit, no effluent discharge from the unit premises was found, however, **considering the presence of polluted**

***/contaminated drain, 05 lagoons/tanks filled with untreated coloured effluent more than consented storage capacity, presence of flexible pipelines within the premises and past UPPCB visit report regarding untreated effluent discharge into the drain through flexible pipelines, it indicates that the unit intermittently discharge their untreated effluent into the drain which poses a serious threat to the surrounding environment and River Hindon water quality."***

*(emphasis supplied)*

The Applicant seeks to bring a few issues before this Hon'ble Tribunal:

A. THE UPPCB OUGHT TO HAVE DIRECTED FOR CLOSURE OF THE UNIT IN JULY, 2019 AND ALLOWED RE-OPENING ONLY WITH PRIOR PERMISSION OF THIS HON'BLE TRIBUNAL:

- a. That the present Applicant had approached this Hon'ble Tribunal in OA 804/2017 raising similar violations, which was disposed of *vide* order dated 27.05.2019 (**Annexure A-7, pg nos. 67-69**), where the Tribunal had directed that:

*"1. That CPCB as well as UPPCB shall jointly inspect the unit of M/s Sir Shadilal Distillery & Chemical Work Pvt. Ltd., bi-monthly from the date of this order till the end of the year, i.e. 31.12.2019.*

*2. On any of the inspection, during the period, if irregularity or non compliance of the standards prescribed is found then the SPCB shall immediately close down the unit.*

...

***4. If the units are closed on account of being non-compliant and on removal of the deficiencies, the unit shall start operation, only after order of the Tribunal."***

*(emphasis supplied)*

- b. That on 15-16.07.2019, the UPPCB carried out an inspection and found irregularities such as the non-compliance of the zero liquid discharge unit, high contaminants in the water sample collected from the Mansurpur drain

and other violations of the consent granted and a show cause notice had also been sent on 1.10.2019 (**Annexure A-9, pg nos. 81-82**). Thereafter, the joint inspection carried out by UPPCB and CPCB on 14.11.2019 (**Annexure A-11, pg nos. 88-91**) also showed that there was contamination in the water sample collected from the discharge. Therefore, as per the above order of this Hon'ble Tribunal the unit ought to have been closed down and then re-opened only after prior permission of this Hon'ble Tribunal.

- c. That thereafter, an inspection was carried out on 21.07.2020, 28.07.2020 and 29.07.2020 which found several violations including the release of untreated industrial effluent in the Mansurpur drain, collection of spent wash etc. Thus, the Office of the Collector, Muzzafarnagar on 31.07.2020 (**Annexure A-15, pg nos. 101-102**) issued a closure order under Section 32(1) of the Water (Prevention and Control of Pollution) Act, 1974 because of the untreated spent wash effluent being discharged by Respondent No. 1 without treatment. However, in violation of the order of this Hon'ble Tribunal, the UPPCB revoked the order of closure by letter dated 10.08.2020, (**Annexure A-17, pg no. 104**) and allowed the industry to continue functioning subject to payment of environmental compensation.
- d. It is submitted the UPPCB ought to have approached the Hon'ble Tribunal for permission without allowing the industry to function in violation of the environmental norms. Thus, the industry has continued to function illegally causing environmental pollution for a whole year due to the Pollution Control Board.
- B. THE INDUSTRY IS A PERPETUAL OFFENDER AND HAS TO BE CLOSED DOWN IN LIGHT OF THE PERSISTENT VIOLATIONS:**
- e. The UPPCB and CPCB had carried out an inspection on 14.11.2019 waste water samples were collected and the parameters for the CPU outlet (after treatment) were found beyond the maximum allowed pollutants as per the

standards set by under the EP Rules, 1986. However, the joint report did not recommend any action despite extremely high level of contamination found in the water samples, in complete violation of the law.

- f. Thereafter, the UPPCB carried out inspections on 21.07.2020, 27.07.2020 and 28.07.2020 upon complaints received upon pollution in the Mansurpur drain due to untreated effluent from the distillery. Upon inspection, colored untreated effluent was found inside the Mansurpur drain of pH-4.9, COD-32,000 mg/l, TSS-16500 mg/l which was in violation of the permitted effluent discharge standards. The lagoons were found filled with spent wash from 60 to 80% of storage capacity and the bio-composting yard was found to be damaged.
  - g. The latest joint inspection report also collected a water sample from the Mansurpur drain and the analysis showed pH-4.5; BOD-1268 mg/l; COD-2392 mg/l; TSS-294 mg/l and TDS- 1828 mg/l which was far beyond the maximum limits prescribed under the Environment (Protection) Act, 1986. The Report has also found similar violations based on which the industry was sought to be closed down in 2020 i.e. discharge of untreated effluent using pipes, damaged shed of the bio-composting yard, lagoons were filled with spent wash.
  - h. Further, the untreated effluent from the drains is entering the Kali river which is a tributary of the Hindon river in violation of the consent granted and Sections 24 and 25 of the Water (Prevention and Control of Pollution) Act, 1974.
  - i. Thus, in light of these persistent violations which is leading to water pollution and irreparable damage to the environment, the industry must be closed down.
- C. THE JOINT REPORT HAS INCORRECTLY CALCULATED THE AMOUNT OF ENVIRONMENTAL COMPENSATION, WHICH HAS TO BE CALCULATED FROM JULY, 2019 TILL JANUARY, 2021:

- j. That an inspection was carried out on 15.07.2019-16.07.2019 by the officials of Respondent No. 3 (CPCB) before the expansion of the distillery unit i.e. when the capacity was 100KLD. That the observations made by the CPCB clearly show that the distillery unit was non – compliant in various aspects. Thereafter, the CPCB sent a notice to Respondent No. 1 on 1.10.2019 under Section 5 of the Environment (Protection) Act, 1986 pointing out certain non-compliances. Thus, it is submitted that from the date of the inspection i.e. 15.07.2019, the calculation of environment compensation has to be carried out as per the Polluter Pays Principle.
- k. That thereafter a joint inspection was carried out by officials of the CPCB and UPPCB on 14.11.2019. In the joint inspection, waste water samples were collected and the parameters for the CPU outlet (after treating) were found beyond the maximum allowed pollutants as per the standards set by under the EP Rules, 1986. However, despite this concerning finding, the joint report did not recommend any action in complete violation of the law and the order of this Hon'ble Tribunal
- l. Thereafter, inspections were carried out in July, 2020 and environmental compensation of Rs. 30,000/- was imposed from 21.07.2020 to 30.07.2020 (without considering violations from 2019). The present inspection report has also imposed environmental compensation from 11.08.2020 to 26.11.2020 as 32.40 lakhs.
- m. However, since the present industry has been violating environmental laws from July, 2019 and is continuing to do it till today i.e. 6 January, 2021. Thus, the environmental compensation has to be revised to reflect this entire period.

**D. THE INDUSTRY IS FUNCTIONING IN VIOLATION OF THE ENVIRONMENT CLEARANCE DATED 7.01.2020 WHICH MUST ALSO BE CANCELLED:**

- n. The Distillery Unit was granted an Environment Clearance on 7.01.2020 for expansion from 100KLPD to 250KLPD by Respondent No. 5, MoEFCC based on the following conditions:

"6. The effluent of 3664 KLPD will be treated through Effluent Treatment Plant (Anaerobic, aerobic, filters and RO plant) of 4000 KLPD capacity. The plant will be based on Zero Liquid Discharge with no release of treated/untreated waste water from the premises of the unit. Prior permission shall be obtained to draw the water from the concerned regulatory authority/CGWA.

*Specific conditions:*

***(iii) Zero Liquid Discharge shall be ensured and no waste/treated water shall be discharged outside the premises. The reuse of treated effluent in gardening/horticulture shall not be considered as ZLD.***

***(iv) Concentrated Spent wash shall be incinerated and not to be released in open space. The existing unit shall install incineration boiler within one year to ensure complete incineration in place of bio-composting."***

*(emphasis supplied)*

- o. Further, condition no. 15. states that "*concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environment (Protection) Act, 1986.*" However, the specific conditions of the Environment Clearance are being violated as the spentwash is being stored in open spaces, lagoons etc. and being released into drains using pipes and not being incinerated.
- p. Thus, the environmental clearance granted is also liable to be cancelled.
- 5) Thus, in light of the various observations and the nature of the industry and history of violations, it is submitted that the industry must be directed to close down completely.

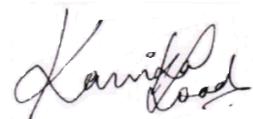
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COUNSELS FOR THE APPLICANT

**NEW DELHI:-**

**DATED:- 06.01.2021**