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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
ORIGINAL APPLICATION NO. 470 OF 2023**

IN THE MATTER OF:

Public Action Committee & Ors.

...Applicants

Versus

State of Punjab & Ors.

...Respondents

JUDGEMENT RESERVED 16.04.2024**INDEX**

S. No.	PARTICULARS	PAGE No.
1.	Written Submissions on behalf of the Applicant No. 6 – Mr. Davinder Pal Singh	2-5
2.	Proof of Service	6

Through

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New Delhi
Dated: 20.04.2024

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**WRITTEN SUBMISSIONS ON BEHALF OF THE APPLICANT NO. 6 –
MR. DAVINDER PAL SINGH**

A. FINDINGS OF THE JOINT COMMITTEE REPORT DATED 21.11.2023

1. Consent under the Air and Water Act were earlier granted upto 30.06.2020.
2. Complaints received from time to time regarding acidic fumes/harmful gases and discharge of untreated effluent and accordingly time to time action was undertaken by the Board.
3. Recorded vide order dated 05.03.2021 passed in O.A. No. 938/2019 that M/s Amar Color Chem (India), against whom regular complaints were being received was found violating provision of the Water and Air Acts, and directions were issued for closure of the unit. **(Ref: Report @ pg. 96)**
4. Documents not available/provided by the industry:
 - i. Fire Safety Certificate/NOC from Punjab Fire Services.
 - ii. Certification from Punjab Water Regulation & Development Authority.
 - iii. Statutory requirement under Public Liability Insurance Rules, 1991.
 - iv. Statutory requirement under Petroleum & Explosives Safety Organization (PESO). **(Ref: Report @ pg. 98)**
5. Industry meeting water requirements through one bore well without any permission from the CGWA/PWRDA for ground water extraction.
6. Adequate ventilation arrangement as well as fugitive emission control system not provided.
7. Some treatment units of ETP found empty and dry – not used for long time.
8. Unit not adopting closed loop system for feeding of raw material into reaction vessel or to carry out semi-finished product, and using open channel.
9. No record maintained for quantity of effluent generation, treated effluent discharged and quantity of ETP sludge generated.
10. Unit has kept various hazardous chemicals in the premises, namely Acetic Acid, Sulphuric Act, Oxalic Acid without valid registration/permission for trading these chemicals at the adjacent textile unit. **(Ref: para 15 of Report @pg. 100)**
11. Workers not using personal protective equipment (PPE) for health and safety.

3

12. Adequate firefighting arrangement not available.
13. No permission from PCB under Hazardous and Other Wastes (Management, and Trans Boundary Movement) Rules, 2016.
14. Separate system for discharge of storm water not provided.
15. Unit has not taken Public Liability Insurance.
16. Unit has not prepared on-site/off-site emergency plant of plant area.
17. Overall housekeeping of unit was poor.

B. PAST VIOLATIONS/ACTIONS AS PER REPLY OF PPCB DATED 28.11.2023

1. Respondent No. 5 unit – M/s Amar Color Chem India, is a small-scale red category industrial unit and deals in manufacture of basic dyes, glycerine, benzaldehyde and dyes methyl aniline using Oil Green, Oil Yellow and other chemicals like Ortho Toluidine, Mono Chlorobenzene and Acids as raw materials.
2. Unit had consents under Air and Water Acts which were valid upto 30.06.2020. Consents were further renewed on temporary basis.
(Ref: Para 3 @pg. 111)
3. Action taken by PPCB from time to time:
 - i. **27.11.2020** – Directions by PPCB, including for disconnection of electricity connection. (Ref: Ann. R-4/B @pg. 118)
 - ii. On request by unit, Consent extended till 31.05.2021 and orders for temporary restoration of electricity issued by PSPCB.
 - iii. **07.05.2021** – Consent revoked by PPCB for non-compliance of decisions of hearings by the unit. (Ref: Ann. R-4/C @pg. 121)
 - iv. **07.05.2021** – Letter by PPCB for disconnection of electricity connection. (Ref: Ann. R-4/D @pg. 130)
 - v. **17.05.2021** – Directions by PPCB for sealing of water and air polluting machinery and D.G. Set. (Ref: Ann. R-4/E @pg. 131)
 - vi. 06.08.2021 – On request of unit, Consent extended till 16.11.2021 and orders for temporary restoration of electricity issued by PPCB after obtaining Bank Guarantee of INR 10 Lacs. (Ref: Ann. R-4/F @pg. 133)
 - vii. Technical Team constituted by PPCB to conduct audit of unit – Report dated 14.12.2021 records – ETP installed by not functioning and adequate arrangements to control air pollution were not made.
 - viii. **10.01.2022** – Closure order issued by PPCB. (Ref: Ann. R-4/H @pg. 147)
 - ix. 16.06.2022 - Consent extended till 31.12.2022 and orders for temporary restoration of electricity issued by PPCB. (Ref: Ann. R-4/M @pg. 164)
 - x. 21.06.2022 – Industry was inspected and samples collected by officials of PPCB. Owner closed main gate and took away collected samples.
 - xi. **08.07.2022** – Consent revoked by PPCB. (Ref: Ann. R-4/N @pg. 167)
 - xii. **08.07.2022** - Letter by PPCB for disconnection of electricity connection. (Ref: Ann. R-4/O @pg. 169)
 - xiii. **12.10.2022** – Instructions issued by PPCB to seal the plant and machinery with D.G. Set. (Ref: Ann. R-4/R @pg. 177)

4

- xiv. 16.11.2022 – Order by Appellate Authority imposing conditions on unit and time of 6 months granted to comply with conditions.
- xv. **18.11.2022** – Plant and machinery sealed by PPCB. Environmental Compensation amounting to INR 8,37,500/- imposed on unit.
- xvi. 16.12.2022 – Consents under Air and Water Acts granted till 23.05.2023. **(Ref: Ann. R-4/T @pg. 185)**
- xvii. **09.03.2023** – Closure order issued by PPCB after inspection. **(Ref: Ann. R-4/U @pg. 200)**
- xviii. Bank Guarantee of INR 10 Lacs was encashed by PPCB for non-compliance by unit.
- xix. **24.05.2023** – Order for sealing of unit issued by PPCB. **(Ref: Ann. R-4/X @pg. 207)**
- xx. 27.06.2023 – Consents under Air and Water Acts granted till 31.12.2023. special condition – industry to conduct environmental audit at its own expense within 3 months from IIT, Delhi. **(Ref: Ann. R-4/AB @pg. 213)**
- xxi. PPCB is taking action on the recommendations made in the Report dated 21.11.2023 of the Joint Committee.

C. STATUS REPORT OF PPCB DATED 10.04.2024

1. Environmental Compensation of INR 8,37,500/- imposed vide order dated 18.11.2022, was set aside vide order dated 04.01.2024 passed in Appeal No. 01/SLO/AA/2023 passed by the Appellate Authority, i.e. Secretary to Government of Punjab, Department of Science, Technology and Environment, Chandigarh. **(Ref: Ann. A @pg. 439)**
2. Respondent No. 5 industry obtained auto renewal of Consent to Operate under the Air and Water Acts on 25.12.2023 which is valid till 25.12.2026.
3. Subsequently, Consents to Operate revoked vide order dated 12.01.2024 on the ground of non-consumption of consented fuel and complaints received. **(Ref: Ann. B @pg. 444)**
4. Show Cause Notice dated 20.03.2024 was issued to the Respondent No. 5 unit in terms of the aforesaid order to assess Environmental Compensation. **(Ref: Ann. C @pg. 448)**
5. After hearing the Partner of the Respondent No. 5 Industry, the case has been referred to the EC Assessment Committee for calculation of environmental compensation.

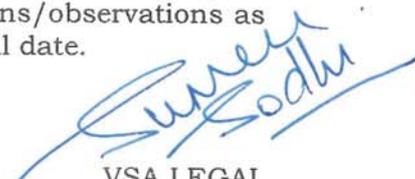
D. FACTORS OUGHT TO BE TAKEN INTO CONSIDERATION BY THE PPCB/ENVIRONMENTAL COMPENSATION ASSESSMENT COMMITTEE

1. Information to be obtained from the Goods and Services (GST) and/or Income Tax Departments to assess the production capacity of the unit and the overall purchase of raw material and sales over the years to correctly assess extent of pollution caused by the unit. As per the website of the unit, it has a capacity of 2500 Mtons and an annual turnover of INR 100 to 500 Crores as per its listing on IndiaMart. **(Ref: Ann. PA-1 @Pg. 230)**
(Ref: Ann. PA-2 @Pg. 233)

5

2. Admittedly, the industry has been operating for the last 25 years. Whether any violation was found by the PPCB and any action was taken against the industry for the violations in the past? **(Ref: Para 10 of PPCB Reply @pg. 114)**
3. Information/documents pertaining to the neighbouring textile industry where raw materials were being stored ought to be obtained. Report records raw materials were stored in the nearby textile unit. Said unit has not been inspected. Present Industry is running multiple units under different names and causing even more pollution than what has been brought before this Hon'ble Tribunal. **(Ref: para 15 of Report @pg. 100)**
4. PPCB notes that the industry has multiple electricity connections, therefore, it could be presumed that the unit was operational even when orders for disconnection of electricity were issued by the PPCB from time to time. No assessment has been done for the said period to assess usage.
5. The PPCB records that during the visits on 05.02.2020 and 10.01.2022, further erection/expansion work was being carried out which reflects expansion of the industry. Whether the Industry obtained prior Environmental Clearance for the expansion carried out in 2020-21? If not, adequate action ought to be initiated. **(Ref: Ann. R-4/B @pg. 118)**
(Ref: Ann. R-4/C @pg. 123)
6. The industry did not allow collection of samples and/or sealing of plant and machinery on multiple occasions in the past.
7. Past reports record harmful and carcinogenic emissions by the industry and in the absence of adequate fugitive emission control system, closure of the industry was recommended.
8. The Respondent No. 5 industry has not obtained prior permission to run/operate the D.G. Set.
9. The Industry has been using non-consented fuel for its operations, which has been recorded by the PPCB in its inspection reports also.
10. The unit is being operated even after Revocation of the consents dated 12.01.2024.
11. Observations/discrepancies/violations observed during various site inspections, and recorded in the various orders/directions passed by PPCB and this Hon'ble Tribunal ought to be considered at the time of imposition of Environmental Compensation.
12. Action under Section 15 and 16 of the Environment Protection Act, 1986 ought to be initiated by the PPCB for past and present violations.
13. Action ought to be initiated against the officer who has filed a factually incorrect Affidavit dated 10.04.2024 and attempting to mislead this Hon'ble Tribunal.
14. The industry should not be permitted to operate without obtaining all requisite permissions/sanctions/directions/suggestions/observations as highlighted in various inspection reports from 2016 till date.

Through


VSA LEGAL
Counsel for the Applicant No. 6



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Service of Written Submissions on behalf of the Applicant No. 6 in case titled 'Public Action Committee & Ors. v. State of Punjab & Ors. [OA No. 470 of 2023]'

1 message

Office Vsalegal <office@vsalegal.in>

Sat, Apr 20, 2024 at 6:00 PM

To: cs@punjab.gov.in, dcamritsar@gmail.com, deputysechousing@gmail.com, seezoasr@yahoo.com, cmd-ppcl@ppcl.in

Dear Sir/ Ma'am,

Please find attached herewith a scanned copy of the Written Submissions on behalf of the Applicant No. 6 in the above captioned matter.

Kindly treat this Email as due service and acknowledge receipt of the same

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