

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

O.A. NO. 470 OF 2023

Public Action Committee and Ors

...Applicants

Versus

State of Punjab and Ors

...Respondents

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Place : Chandigarh

Date : 27.04.2024

Through Counsel

 
[AALOK JAGGA] [HARKIRAT S. JAGDEV]
P/569/05 PH-6034/21

ADVOCATES

COUNSELS FOR THE RESPONDENT NO.5
House No. 1178, Sector 21-B, Chandigarh-160022.
Phone : 0172-2709786, 8146609197, 8360551752

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

O.A. No.470 of 2023

Public Action Committee & others ...Applicants
Versus
State of Punjab & others. ...Respondents

Written submissions on behalf of
Respondent No.5.

RESPECTFULLY SHOWETH-

1. That entire thrust of the argument of applicant is that Respondent No.5 is continuing operations of the Unit in spite of consent granted under the Air (Prevention & Control of Pollution) Act, 1981, hereinafter referred to as 'Air Act' and Water (Prevention & Control of Pollution) Act, 1974, hereinafter referred to as 'Water Act', has been revoked.
2. That the aforesaid submission is incorrect. At page 75 of the written statement/reply filed by Respondent No.5, is the consent dated 27.06.2023 under the Air Act and at page 82, is under the Water Act, both of which are valid till 31.12.2023. Before the last date, consent was applied and was granted on 25.12.2023 valid uptill 25.12.2026, which is at page 87 (Annexure R-11 of the reply of Respondent No.5). Appellant contends that the said consent was revoked vide order dated 12.01.2024. The Said consent was revoked pertaining to the period till 31.12.2023 which itself creates a doubt that under whose influence the said order was passed, as the consent automatically was revoked on 31.12.2023 if further not applied. The Air Ambient report for the time period i.e., 08.12.2023 is also affixed. A copy of the revocation order is appended herewith as **ANNEXURE R-30**, though the appellant was directed to place the same on record vide order dated 06.02.2024. For The said document, in any case, is a matter of record. Perusal of the same would reveal that

it is only passed under the Air Act and not under the Water Act. Secondly, perusal of the same would reveal that apparently, the said order was passed ex-parte, behind the back of the Respondent No.5 and without any Show Cause Notice. By now, it has been well settled by numerous Judgments that such order for revocation of consent, cannot be passed without notice and opportunity of hearing to the affected party. The said order, cannot, therefore, be called to be statutory order in the eyes of law. It has been passed without complying the mandatory procedure, without which, consent cannot be revoked. The Respondent No.5 submitted a representation dated 17.01.2024, which is appended as **ANNEXURE R-31**. The aforesaid infirmities were highlighted. Apparently, PPCB also noticed aforesaid inherent illegalities in the order, which cannot lead to calling of an order revoking consent. Consequently, on 19.02.2024, at page 8, Annexure R-3 along with documents filed vide Diary No.13052023/6 dated 15.04.2024), Show Cause Notice was issued under the Air Act and Water Act, seeking to revoke the consent. At page 10, 2nd Paragraph from bottom, it notices the earlier revocation of consent letter issued under the Air Act. It also notices auto-renewal consent granted to the Respondent No.5. It also notices order dated 06.02.2024 at page 10 passed by this Hon'ble Tribunal wherein in Para No.3 & 4, this Hon'ble Tribunal mentioned about the said revocation of consent order and granted time to Counsel for PPCB and Respondent No.5 to get instructions. Thus, PPCB being in knowhow of the entire backdrop, had issued this Show Cause Notice. Date of hearing was fixed as 06.03.2024. This Show Cause Notice also proves another vital thing that earlier revocation of consent letter dated 12/22.01.2024 since was issued without such Show Cause, is unsustainable.

3. That Respondent No.5 submitted its reply to the Show Cause Notice which is at page 14 of the said documents. It is to be noticed that now rectifying the earlier mistake, Show Cause notice is under both Air &

Water Act as opposed to earlier revocation of consent issued under Air Act and not under Water Act.

4. That on 20.03.2024, PPCB issued another Show Cause Notice at page 26 of the aforesaid documents. Final opportunity of hearing was given for 28.03.2024. All the aforesaid events including the revocation of earlier consent order dated 06.02.2024, earlier documents, as referred to above, have already been noticed.
5. That on 28.03.2024, reply was submitted and it was highlighted that environment compensation is required to be recalculated pursuant to order dated 04.01.2024 at page 3 of the said documents.
6. That on 08.04.2024, Annexure R-27, page 31 of the aforesaid documents, proceedings of personal hearing held on 28.03.2024, have been placed on record. At page 36, it has concluded that even though, environment compensation has been reconsidered pursuant to order of such reconsideration passed by the Ld. Appellate Authority dated 04.01.2024 at page 3, and consequent upon reconsideration, environment compensation is liable to be imposed, but assessment of the same is required to be done by the Environment Compensation Assessment Committee, which will separately consider. Important is at Sr.No.4 & 5 at page 36 wherein it has been directed that the regional office shall visit the Industry and verify the compliances and suggestions & recommendations of the Joint Committee and submit the report within 2 weeks. The said proceedings are dated 08.04.2024 and proceedings will expire on 22.04.2024. These directions at Sr.No.4 & 5 have been passed in the backdrop of earlier consent granted on 27.06.2023 valid uptill 31.12.2023; auto-renewal consent dated 25.12.2023 valid till 25.12.2026; revocation of consent and subsequent order dated 06.02.2024 passed by this Hon'ble Tribunal.
7. That applicant, on the previous date of hearing, contended that PPCB did not have any power of review. The said argument may not be sustainable for the reason that firstly, it is no doubt, correct that there is no power of

review after an authority passes a statutory order. But to call an order as a statutory authority, it is mandatory to comply with the basic requirements which lead to passing of such order. Since, no Show Cause Notice admittedly was issued before passing of the order dated 12.01.2024/22.01.2024 allegedly revoking the consent, it cannot be called as an order revoking the consent under the Act. Secondly, Respondent No.5, on coming to know of the aforesaid, immediately made a representation pursuant to which, fresh proceedings were initiated after PPCB also realized its mistake. Thirdly, revocation order dated 12.01.2024 was only under the Air Act and not under the Water Act. Fourthly, Respondent No.5 would have filed an appeal, provided if Respondent-PPCB would have contended that it does not wish to rectify the mistake. Having initiated the process of hearing, the applicant on calling for reply, Respondent No.5 had no occasion to file a separate appeal against such revocation of order, which by the own action of PPCB, did not exist on account of issuing fresh Show Cause Notice dated 19.02.2024 and 28.03.2024 with the subsequent proceedings being carried out in the light of the order dated 06.02.2024 passed by this Hon'ble Tribunal, there was no question of filing an appeal in these circumstances.

8. That in so far as hazardous waste disposal is concerned, at page 144 of the reply is the agreement with Nimbua Greenfield Punjab Limited dated 10.06.2021 for lifting of hazardous waste. Therefore, pending grant of consent for hazardous waste for which application no.24123943 at page 39 of the documents filed vide diary no. 0701114013052023/6 dated 15.04.2024 has already been submitted and pending consideration, the said waste is being effectively discharged.
9. That as on today, once PPCB has already taken a decision to examine afresh, without the said report, it cannot be said that Respondent No.5 is acting illegally. Proceedings initiated in midway, present petition is, therefore, premature. In any case, grievance of the applicant stood

redressed with the proceedings initiated by PPCB by virtue of Show Cause Notice dated 19.02.2024 and 28.03.2024. Thus, it cannot be said that applicant was working without consent.

It is, therefore, respectfully prayed that the present O.A. may kindly be dismissed with costs, in the interest of justice.

Place: Chandigarh

Dated: 27.04.2024

Through Counsel


[AALOK JAGGA]
P/569/05


[HARKIRAT S. JAGDEV]
PH-6034/21

ADVOCATES
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Email: apjlegal@gmail.com.

Verification: -

Verified that the contents of above written submissions contained in aforesaid Paras, are true and correct to my knowledge and no part of it is false and nothing has been concealed therein.


Chandigarh

Dated : 27.04.2024

ANNEX-R-30

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Dir Ref Rev 20

 PUNJAB POLLUTION CONTROL BOARD		
Zonal Office, Plot No. 164, Focal Point, Mehta Road, Amritsar		
Tele Fax:- 0183-2581420	Website:- www.ppcb.gov.in	email:- eezoasr@yahoo.com
Regd.		Date: 12/01/2024

No. 164
ToM/s Amar Colour Chem India,
26 Focal Point,
Amritsar.Sub: **Revoking of consent to operate under Air (Prevention & Control of Pollution) Act, 1981 (24296762).**

Whereas, it is obligatory on the part of the industry to obtain consent to operate an outlet under the Air (Prevention & Control of Pollution) Act, 1981 and the Water (Prevention & Control of Pollution) Act 1974 for operation of the industry.

And whereas, it is mandatory on the part of industry to install proper and adequate pollution control devices so as to ensure that the concentration of various pollutants in emissions/effluent being discharged by industry, conforms to the emission/effluent standards as prescribed by the Board.

And whereas, Regional Office, Amritsar reported that the industry was granted consent to operate under Air (Prevention & Control of Pollution) Act, 1981 valid upto 31-12-2023, subject to the suitable conditions mentioned there under.

And whereas, a complaint titled as Public Action Committee & Other V/s State of Punjab & Ors before the Hon'ble National Green Tribunal, New Delhi in the matter of pollution being raised by M/s Amar Color Chem, Plot No. 26, Focal Point, Mehta Road, Amritsar. The Hon'ble National Green Tribunal (NGT), in O.A No. 470/2023 vide order August 10, 2023 constituted a joint committee of three members comprising of one representative from State Pollution Control Board, Punjab, one representative from the CPCB and one representative from Collector/DM, Amritsar. The Committee is directed to visit the industry and submit the factual action taken report on extent of violation and reasons for not taking action under Water Act, 1974 and Air Act, 1981 within four weeks. The State PCB will be the nodal agency for coordination and compliance. It has directed by the Hon'ble NGT in the order dated 10/08/2023, as follows: -

"We deem it just and proper to call a report on the matter in issue in present original application, from a Joint Committee constituted on the above cited matter. In compliance to Hon'ble NGT order committee comprising of the following members was composed 1. Sh. Nikas Kumar, IAS, SDM, Amritsar-II (Nominated by District Magistrate, Amritsar) 2. Sh. J P Meena, Scientist-D, CPCB (Nominated by CPCB, RD, Chandigarh) 3. Er. Sukhdev Singh, EE, PPCB, RO, Amritsar (Nodal Officer, nominated by PPCB)

And whereas, the Joint Committee comprising of above said officers visited the industry on 20.10.2023 and has placed action taken report before Hon'ble National Green Tribunal, New Delhi through e-mail on 22.11.2023 for consideration. As per factual action taken report the observations made by the committee are as under: -

1. The unit is involved in batch wise standardization operation of dyes for further processors application needs. However, the unit reportedly manufacturing the basic Dyes Oil Yellow @100 kg/day, Oil Green @ 100 kg/day using glycerine, benzaldehyde and dyes methyl aniline and other chemicals such as Ortho toluidine, Mono chlorobenzene & acids as raw material.
2. The unit meets its water requirement through one bore well for industrial and domestic purpose. Mechanical type water meter installed at bore well and log book of the same was not maintained.
3. The unit has not obtained permission from Central Ground Water Authority (CGWA)/ PWRDA for ground water abstraction.
4. The unit has provided separate two reactor vessels for processing of the oil yellow & Oil Green dyes standardization.

5. Committee observed that work zone area of green dye stuff has not provided adequate ventilation arrangement as well as fugitive emission control system.
6. On the day of visit, the unit was found operational however, other treatment units of the ETP were found empty and dried which indicated that the flowing of stream from process is not produced since long times. Only Aeration tanks of ETP were found operational for maintaining the biomass.
7. As informed by the unit representatives, no effluent is generated from this process although, a small quantity effluent generated infrequently in floor washing of the work area, cleaning and washing of reactor vessel and its floor, that effluent is enrouted to existing ETP for treatment. However, logbook of the same was not maintaining.
8. Committee observed the unit is not adopting closed loop system for feeding of the raw material into the reaction vessel along with carry out the semi-finished product through open channel.
9. The unit has installed an ETP which is based on physico-chemical followed by Biological process. The ETP comprises of Bar Screen > Oil & Grease Chamber > Equalization Tank > Chemical Dozing > Flocculation Tank > Primary Tube Settler > MBBR-1 > MBBR-2 > Secondary Tube Settler > Pre-filtrations tank > Pressure Sand filter > Dual Media filter > Activated Carbon Filter □ Final Outlet.
10. On the day of visit, there was no discharge of the effluent from the ETP.
11. At the time of visit of the team the ETP was not in operation only aeration in MBBR-1 and MBBR-2 (Aeration Tank-I, Aeration Tank-II 2) were operational. Effluent samples were collected from MBBR-1 and MBBR-2 (Aeration Tank-I & Aeration Tank-II). Sample were sealed in the presence of Sh. Rohit Handa, Partner and sample were sent to the Board's Lab at Head Office, Patiala for analysis MLSS and MLVSS.
12. On the day of visit, committee observed that all treatment components of ETP were found empty and dry except aeration tank of ETP. The committee had taken samples from aeration tank (MBBR Tank-1 & MBBR Tank-II) of ETP to assess stabilized of the bio-mass. Sampling Location MLSS MLVSS aeration tank-I 2280 1710 aeration tank-II 960 680 all values are in mg/l.
13. The unit has installed OCEMS at final outlet of ETP for measuring meter pH, TSS, COD, BOD, flow meter. The OCEMS were not showing on line value due to not generation of the effluent.
14. The unit has not maintained any records of the quantity of effluent generation, treated effluent discharged and quantity of ETP sludge generated.
15. Committee observed that the unit kept various hazardous chemical in their premise namely Acetic acid, Sulphuric acid, Oxalic acid without valid registration/permission for trading these chemicals at the adjacent textile units.
16. The unit has installed 02 no. reaction vessels from manufacturing of Oil Yellow at second floor of its production area. The reaction vessels are attached with wet alkaline scrubber provided as APCD at second floor for scrubbing gases being generated from the process during reactions. Wet scrubber installed by the unit was in operation at the time of visit.
17. The unit has also installed storage vessels at the second floor of production area for the purpose of storage of raw material as well as intermediate products. All storage vessels are also connected with wet alkaline scrubber provided at Second floor.
18. The unit has installed storage vessels at first floor of the production area. All storage vessels are connected with wet alkaline scrubber provided at second floor.
19. The unit has installed 01 grinder at ground floor for grinding of intermediate product. The unit has also installed 01 centrifuge machine for extraction of crystalline material from its process. As informed by the unit representative, liquid (mother liquor) being generated from the centrifuge process is being reuse in the process.
20. The unit has installed one filter press and same was found in non-operational condition.
21. The unit has not put up proper display board at the entrance gate as per the Hon'ble supreme court order in WP 657/1995.

Dr Ref Rev 20

22. It was observed that workers are not using personal protective equipments (PPEs) for their Health & Safety i.e. Gum Boot, Mask Safety belt etc.
23. The unit has not installed adequate firefighting arrangements in their plant premise i.e. Hose Reel system, Fire Hydrant system, Sand buckets, Portable Fire Extinguishers, Electrical/manual siren for emergency/ accident situation.
24. The unit had been kept used drums and barrels as well as various raw chemical of MS drums/plastic containers in open area of the unit premise.
25. The unit possesses consolidated consents valid upto 31.12.2023 under the Water Act-1974 and the Air Act-1981 whereas Authorization has not obtained under the Hazardous and Other Wastes (Management, & Trans boundary Movement) Rules, 2016 from PPCB.
26. Committee observed that the unit has not provided separate system for discharge of the storm water.
27. The unit has not taken public liability insurance policy.
28. The unit has not prepared on-site /off-site emergency plan of the plant area.
29. Over all housekeeping of the plant process area was found poor.

And whereas, the committee has also given suggestion in its report which are given as under:-

1. The committee suggests that local administration /PPCB should keep stringent surveillance to discharge of the effluent in addition to releasing toxic gases and fugitive fumes in ambient air as well as discharging harmful effluents in the domestic sewer illegally.
2. The unit should obtain permission from Central Ground Water Authority (CGWA)/ PWRDA for ground water abstraction.
3. The unit should install electromagnetic flow meter in place of Mechanical type water meter at tube well and log book of the same was maintained.
4. Emergency preparedness plan based on the hazard identification and risk assessment and disaster management plan should be implemented in the unit.
5. The unit should obtain valid registration/NOC permission from concerned SPCB for trading of hazardous chemical in their premise namely Acetic acid, sulphuric acid, oxalic acid etc.
6. The unit should obtain authorization under the Hazardous and Other Wastes (Management, & Trans boundary Movement) Rules, 2016 from PPCB for disposal of Used drums/containers, ETP sludge, process residue and expired chemicals.
7. The unit should be taken public liability insurance policy.
8. The unit should prepare on site /off site emergency plan of the plant area.
9. Over all housekeeping of the plant process area should be improved.
10. Leakage and spillage in the process needs to be improved.
11. The unit should install adequate firefighting arrangements in their plant i.e. Hose Reel system, Fire Hydrant system, Sand buckets, Portable Fire Extinguishers, Electrical/manual siren for emergency/ accident situation.
12. The unit should carry out regularly occupational health checkup of engaged workers and records of the same was maintained.
13. The unit should maintain proper ventilation system in the work Zone by providing proper exhaust along with filter and duct in the process area of green dye stuff.
14. The unit should put up proper display board at the entrance gate as per the Hon'ble supreme court order in WP 657/1995.

And whereas, said report has been submitted before the Hon'ble National Green Tribunal, New Delhi along with a separate report on the behalf of the Board. The case before Hon'ble National Green Tribunal, New Delhi was listed on 01.12.2023 and Hon'ble tribunal has passed orders which are attached herewith for your kind perusal. The abstract of the said orders are as follow: -

"Joint Committee has submitted the report dated 21.11.2023 which reflects various non-compliance and violations by the project proponent-respondent no.5 and objections to the report of the committee has also been filed by the applicant. A separate reply dated 28.11.2023 has been filed by the PPCB."

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The said case has now fixed on 06.02.2024 for which report has already been submitted by the Board.

And whereas, a complaint regarding pungent odor and emitting black smoke was received telephonically from the prop. of adjoining unit. Accordingly, area under complaint was visited on 08.12.2023 and pungent odor being released from the industry observed from the roof of the adjoining unit. It is further intimated that this office asked GSPL through e-mail dated 09.12.2023 to submit consumption of PNG by the industry from last 06 months. Accordingly, GSPL has submitted record vide e-mail dated 11.12.2023 and as per record submitted consumption of PNG by the industry is zero from 24.09.2023 to upto 30.11.2023. It reveals from the record submitted by GSPL that the industry is not using PNG as fuel in its boiler and is using non-consented fuel.

And whereas, in light of the observations/violations observed by the Joint Committee as well as complaint received from the adjoining industry and record submitted by GSPL regarding non-consumption of PNG (consented fuel), the industry has failed to comply with the conditions of consent granted to it and is violating various provisions of the Air (Prevention & Control of Pollution) Act, 1981, as such the Competent Authority has decided to revoke the consent to operate granted to the industry under the said Act.

As such, in exercise of the powers conferred upon u/s 21 of Air (Prevention & Control of Pollution) Act, 1981, the consents to operate granted under the above said Act is hereby revoked due to the reasons mentioned above.

sw 12/12/24
Senior Environmental Engineer
Zonal Office, Amritsar

Endst. No. _____

Dated. _____

A copy of the above is forwarded to the Environmental Engineer, Regional Office, Punjab Pollution Control Board, Amritsar for information and further necessary action..

sw
Senior Environmental Engineer
Zonal Office, Amritsar

GSTIN : 03AACFA0128R1Z0



- 10 - 231 ANNEX-P/31

Amar Colour Chem India

A GOVERNMENT RECOGNIZED EXPORT HOUSE

Manufacturers, Importers & Exporters of Basic Dyes, Chemicals & Pharma Raw Materials

Work & Corp. Office. : Plot No. 26,
Old Focal Point, Near Hyatt Hotel,
Amritsar 143001 (Punjab) INDIA.

+91-97792-60903
+91-62849-16659
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accexporters@hotmail.com
info@amarcolour.com
rohit@amarcolour.com

AmarindiaLtd
amarcolour
www.amarcolour.com

Date : 17.01.2024

To

Senior Environmental Engineer,
Zonal Office,
Punjab Pollution Control Board Amritsar.

Subject : cancelling the revocation order vide office letter bearing no. 164 dated 12/01/2024.

Sir,

It is for the kind information of esteemed authority that the Air consent of Amar Colour Chem India 26 Focal Point was revoked without any show cause notice or orders of competent authority merely on the basis of telephonic complaint. The Unit took supply of Gas from Gas Gujarat Gas Company as fuel but due to wastage, the unit also took the supply of gas from Local Venders (bills enclosed). The unit not required fuel prior to December month. The pressure of Gujarat Gas is not adequate with our processing machines so were compelled to took supply from local venders.

The adjoining unit is habitual complainant who uses to file false complaints. Such person should be ignored as he himself is totally idle and has no work except to lodge such false complaints. The unit (AMAR COLOUR) fulfil the conditions and only after the consent is issued to the unit.

Kindly cancel the revocation orders vide letter no.164 dated 12/01/2024 in lieu of justice as the unit shall suffer from irreparable loss.

For Amar Color Chem India
Amar Colour Chem India
Partner
26-Focal Point, Amritsar.

Anand
18/1/24