

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

**Original Application No. 95(T<sub>HC</sub>) of 2013**

**Shyamal Basu & Ors. Vs. West Bengal Pollution Control Board &Ors.**

**CORAM :** HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER  
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER  
HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER  
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER

**Present:** Applicant: Appearance not given  
Respondent No. 1: Ms. Asha Nayyer, Mr. Nayan Behani and Mr. Amit Agrawal, Advocates  
Respondent No. 2&3: Mr. Bikas Kargupta, Advocate  
Respondent No. 4: Mr. Ehtesham Hashmi, Advocate  
Respondent No. 5&7: Mr. P. Basu, Advocate  
Respondent No. 6: Mr. Supriya Chattopadhyaya , Advocate

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 8 April 16, 2014</b>	<p>With our Order dated 12<sup>th</sup> December, 2013 we had noticed the facts giving rise to the present Application and the pollution that was being caused by Respondent No. 4. We have no doubt in observing that the Officers and the Board have failed to discharge their statutory duty to prevent to control the pollution in accordance with law.</p> <p>This polluting unit is of M/s Haldiram- the Respondent No. 4, which has been in operation from 2002 to 2010 without any inspection being conducted by the Officers of the Pollution Control Board. It may be noticed that all the inspections that had been conducted prior or subsequent thereto had found that the industry was violating the prescribed parameters as well as not operating in consonance with the rules.</p> <p>Analysis Reports placed before us clearly show that all the parameters concerning effluents were much in excess of the prescribed limits. We would refer to one such Report which reads as follows:</p> <p style="text-align: center;"><b><u>"Inspection Report</u></b></p> <p><b>Name and address of the unit :</b> M/s Haldiram Bhujawala Ltd. P-420, Kazi Nazrul Islam Avenue, P.S. Rajarhat, Kol – 52</p> <p><b>Date and time of inspection:</b> 15.01.13, 15-15 Hrs.</p> <p><b>Inspection Reference:</b> Prayer submitted by the unit for extension of validity of consent to operate.</p> <p><b>Name of inspecting officer:</b> 1) A. K. Dey, E.E. 2) P.K Mondal, A.E.E.</p> <p><b>Police Station:</b> Rajarhat</p>

**Name of Electric Supply Authority:** CESC Ltd.

**Name of representative met with:** Mr. Manish Sharma, Manager-Purchase

**Statutory Compliance:** Consent to Operate of the units had expired on 31.12.11. Unit has submitted prayer for extension of validity of Consent to Operate upto 31.12.13

**Observation:**

Unit is engaged in manufacturing of bakery and confectionery items. Unit was found in operation during inspection using some gas and diesel fired ovens.

Previously unit had 3 nos. bay boiler, 2nos. T.F.H. and 1 no. heat exchanger for its process activity.

At present, there is no existence of the said machineries, the unit representative stated that unit has shifted the said machineries from this site to other location of the unit. The ductings were found in dismantle condition.

At present unit has 12 nos. oven. Unit has 01 no. DG set of capacity 380 KVA which was found to install within a separate room where sound absorbing materials were fixed on ceiling and three side walls of the room.

The unit has E.T.P. but the same was found in non functional condition. During inspection unit representative stated that unit had lowered down its production in this site and amount of effluent generation is very low.

**Remarks:**

Consent to the operate of the Unit may be recommended with the condition that the unit should run it's ETP as per load of effluent quantity"

In the inspection Report dated 15<sup>th</sup> January, 2013 it was noticed that the consent had expired on 31<sup>st</sup> December, 2011 and thereafter the unit had been operating without obtaining consent of the Board. In this very Report it was also noticed that the ETP of the unit was found in non-functional condition.

Persistently, the unit was found to be operating and violating the terms of consent, but still the unit was permitted to carry on its manufacturing and commercial activities without taking necessary corrective steps. There are serious lapses on the part of the Board besides that the Applicant has carried on his manufacturing and commercial activities with total disregard to all the Environmental laws in force.

With our Order dated 12<sup>th</sup> December, 2013, we had also given opportunity to the unit to file Reply showing cause as to why it should not be called upon to pay compensation for polluting the environment and operating

without consent of the Board. Till today no Reply has been filed by the unit in furtherance to the said Order.

Learned Counsel appearing for the said Respondents pray for further time to file Reply on record. Let Reply now be positively filed within two weeks from today.

Keeping in view the exceptional circumstances and persistent violation on the part of the unit, we hereby direct that said unit shall be closed forthwith and will not carry on any manufacturing or commercial activity on the premises in question till the next date of hearing or till it complies with all the requirements and directions issued to bring discharge of effluents within the prescribed limits and all its anti-pollution devices including ETP become satisfactorily operational.

The Pollution Control Board shall conduct an inspection of the unit within two weeks from today and place its Report along with Analysis Report, if any, before us.

Needless to point out that the Report shall be comprehensive in all respect, particularly with regard to the installation of anti-pollution devices, functioning of ETP, the parameters of effluents discharged or gas emissions. It shall also in particular state as to whether the DG sets admittedly installed by the units adhere to standards for installation and whether they are causing any pollution (noise and air both) along with the Analyst Report, if any.

The State Government and the Pollution Control Board shall ensure that the Order of the Tribunal is carried out without any delay.

List the matter on 19<sup>th</sup> May, 2014.

.....,CP  
(Swatanter Kumar)

.....,JM  
(U.D. Salvi)

.....,EM  
(Dr. D.K. Agrawal)

.....,EM  
(B.S. Sajwan)

.....,EM  
(Dr. R.C. Trivedi)

