

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Original Application No. 1/2012  
And  
M.A. No. 683/2013 in  
Original Application No. 1/2012

Sanjay Agnihotri V/s. Union of India & Ors.

CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER  
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER  
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER

Original Applicant : Mr. Raj Panjwani, Sr. Adv. with Ms. Parul Gupta  
and Ms. Richa Relhan, Adv.

Applicant / Appellant: Mr. Amit Khemka, Adv.,  
(in M.A. No. 683/2013)

Respondent No. 2 : Mr. Pradeep Misr &, Mr. Daleep Kumar  
Dhayani, Adv.

Respondent No. 3 : Not present

Respondent No. 4 : Mr. Gautam Kumar, Adv.

Respondent No. 5 : Mr. Ravindra Kumar, Advocate

Respondent No. 6 : Mr. Amit Khemka, Adv.

(in O.A. No. 1/2012).

Respondent No. 7: Ms. Savitri Pandey, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item Nos. 2&amp;3 February 4, 2014</p>	<p><b><u>Original Application No. 1/2012</u></b></p> <p>We have heard Mr. Panjwani, learned Senior Counsel appearing for the Applicant, learned Counsel appearing for the Respondent No. 2 (UPPCB), learned Counsel appearing for the Respondent No. 5 (NOIDA), learned Counsel appearing for the Respondent No. 6 (Noida Entrepreneurs Association) and Ms. Savitri Pandey, learned Counsel appearing for Respondent No. 7 at some length on the long and short term action plan submitted by the Government of UP.</p> <p>After hearing learned Counsel for the parties, we are of the view that further input is to come from another agency i.e. CPCB who is already a party being Respondent No. 3 in this application. Accordingly, we direct the CPCB to make a thorough study of the action plan submitted by the UP Government and give its opinion in respect of each of the items of the action plan by the next date of hearing. It will be open</p>

to the CPCB to consult with the other experts like IIT while arriving at conclusion and shall file its report by the next date of hearing.

In the meantime, learned Counsel appearing for the Pollution Control Board would submit that in so far as it relates to the carrying capacity of NOIDA in respect of various units functioning there, it is proposing to refer the same to the IIT for proper study and its recommendations.

We make it clear that the UP Pollution Control Board in consultation with NOIDA shall take necessary steps in this regard and take a final decision within a period of three (3) weeks from today so as to enable the IIT to give its final decision.

Copy of this order shall be given by Dasti to the Counsel for the Applicant who shall inform the Counsel for the CPCB about the order.

Stand over to 11<sup>th</sup> March, 2014.

**M.A. No. 683/2013 in Original Application No. 1/2012**

We have heard learned Counsel appearing for the Applicant (in M.A. No. 683/2013) as well as original Applicant also apart from the Counsel appearing for the UPPCB.

The CPCB has already filed its report stating to the effect that the unit concerned is complying with all the norms. However, in our earlier order, we have directed the Project Proponent to inform this Tribunal as to whether in the past six years for their manufacturing activity, they have got authorisation from the Pollution Control Board. Learned Counsel appearing for the unit concerned would submit that they got authorisation from the month of January, 2014 onwards. In so far as, it relates to the previous years, according to him, even though the unit has not got authorisation, the waste materials have been handed over to the agency called TSDF (M/s. Bharat Oil & Waste Management Ltd., Kumbhi, Akbarpur, Kanpur Dehat). He also produced the membership certificate from the said TSDF. However, learned Counsel would fairly submit that the authorisation has not been obtained from the Pollution Control Board.

We also took note of the earlier orders passed by this Tribunal in respect of this unit and it is seen that this unit has been imposed with the cost of Rs. 1,45,000/- on various occasions based on the polluter pay principle.

We make it clear that the UPPCB shall ensure that the waste materials of previous years in respect of this unit have been properly disposed of through TSDF and report the same before the Tribunal when the original application is taken up.

We also took note of the report of the CPCB which shows that there is no accumulation as such. In such view of the matter, we permit the unit concerned to operate after obtaining all necessary permission in accordance with law subject to the condition that the unit shall pay another amount of Rs. 25,000/- which is to be paid to the Legal Aid Fund of NGT Bar Association within a period of one week from today.

Accordingly, the order of UPPCB dated 5.08.2013 stands modified by giving permission to the unit concerned to proceed with its manufacturing activities subject to following all the rules and regulations especially environmental norms. The UPPCB, on payment of cost from the learned Counsel for the Applicant, shall un-seal the premises immediately thereafter.

Accordingly, the M.A. No. 683/2013 stands disposed of.

....., JM  
(Dr. P. Jyothimani)

....., JM  
(M.S. Nambiar)

....., EM  
(Prof. A.R. Yousuf)

....., EM  
(Ranjan Chatterjee)