

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. No. 13/2014

IN

Application No. 1/2012

Sanjay Agnihotri Vs. Union of India & Ors.

CORAM: HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. DR. P.C. MISHRA, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER

Applicant / Appellant : Ms. Richa Relhan, Adv.
(in M.A. No. 13/2014) : Mr. Saket Sikri, Adv. with Mr. Rajat Arora & P. Dey, Adv.
Respondent No. 2 : Mr. Daleep Kr. Dhyani with Mr. Pradeep Misra, Adv.
Respondent No. 3 : Ms. Alpana Poddar, Adv.
Respondent No. 5 : Mr. Ravindra Kumar, Adv. with K. P. Pathak, Adv.
State of UP : Ms. Savitri Pandey, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item No. 3 January 13, 2014</p>	<p>By an order dated 30.10.2013, finding that as per the Report submitted by the CPCB in respect of the unit of the applicant in M.A. No. 677/2013, the Applicant has not co-operated with CPCB at all for the purpose of taking samples and ETP was not in operation when samples were sought to be taken on 21.10.2013 and the unit was not operating in full capacity. It was also found that only 4 out of 7 electroplating tanks were in operation and no waste water from electroplating process was reaching the tanks of the ETP and fresh water was being discharged on both sides with a view to dilute the waste water. It was, therefore, found that nothing was more required to come to a conclusion, that it is total wilful and defiant conduct of the unit and to conclude that it is an apt case where the polluter pay principles shall be applied. Therefore, the Tribunal had imposed a cost of Rs. 1,00,000/- (Rs. One Lakh) on the said unit and directed that the cost be paid to the Legal Aid Fund of NGT Bar Association within a period of two (2) weeks.</p> <p>Finding that the unit cannot be permitted to operate, we directed to close the electroplating section of the unit forthwith. It was also made clear that unless and until further inspection report is submitted</p>

by the CPCB, which would be possible only if the unit makes its full co-operation to the CPCB, the electroplating section of the unit cannot be permitted to operate. It was also made clear that when the Applicant makes necessary application to the CPCB and UPPCB, after making necessary modifications, it is open to the Board to take necessary action. The unit has now filed M.A. No. 13/2014 for a direction to UPPCB to de-seal the unit for a period of seven working days for the purpose of testing and installing the new capacities, alterations and modifications and to direct the CPCB to inspect the unit of the present Applicant after a period of seven working days, after giving one day notice to the Applicant so that the Applicant can fully co-operate with the CPCB for the purpose of giving samples to the CPCB and inspection and enable the CPCB to submit status report to the Tribunal.

We have heard the learned Counsel appearing for the Applicant and learned Counsel appearing for the UPPCB and CPCB.

Learned Counsel appearing for the Applicant submitted that the cost of Rs. One Lakh was already deposited on 07.1.2014 as directed by the Tribunal.

Finding that the Applicant has not co-operated with the UPPCB and CPCB to take samples as directed, the unit was directed to be sealed, granting liberty to the Applicant to apply after making necessary modifications. As rightly pointed out by the learned Counsel appearing for the Applicant unless the unit is permitted to operate, samples cannot be taken by the CPCB or UPPCB. In such circumstances, we find it necessary to permit the unit to work for a period of seven working days, to enable the UPPCB and CPCB to collect the samples to find out whether the unit has complied with the earlier directions. But the unit can be permitted to operate for that limited purpose alone and not for any commercial purpose during that period.

The UPPCB is therefore, directed to de-seal the unit of the Applicant on 15.01.2014 (the date agreed by the learned Counsel appearing for the Applicant and learned Counsel for UPPCB) to enable

the unit to operate for a period of seven working days from 15.01.2014. The UPPCB and CPCB are directed to make joint inspection and collect samples within three days after expiry of the said seven working days from 15.01.2014.

The UPPCB and CPCB shall submit the status report within two weeks from the date of taking such samples. The unit shall be sealed after collection of the samples and can be permitted to operate subject to the result of the status report. The report shall be submitted directly to the Tribunal.

Stand over to 31st January, 2014.

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

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. Dr. P.C. Mishra)

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

