

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

.....

**ORIGINAL APPLICATION NO. 358(T<sub>HC</sub>)/2013  
(DBCWP No. 8074/2010)**

**In the matter of:**

M/s Laxmi Suiting,  
20/5(1), Heavy Industrial Area,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 359(T<sub>HC</sub>)/2013  
(DBCWP No. 8682/2010)**

**In the matter of:**

M/s Arun Dal Mills,  
21/2, Heavy Industrial Area,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Nigam Ltd.  
Through Superintending Engineer,  
Jodhpur.

5. The Assistant Engineer(BIII),  
Medical College, Jodhpur DISCOM,  
Jodhpur.

6. Jodhpur Pradushan Niwaran Trust,  
Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 360(T<sub>HC</sub>)/2013  
(DBCWP No. 9612/2010)**

**In the matter of:**

M/s Adarsh Industries,  
51, Heavy Industrial Area,  
Behind New Power House,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Nigam Ltd.  
Through Superintending Engineer,  
Jodhpur.

5. The Assistant Engineer (BIII),  
Medical College, Jodhpur DISCOM,  
Jodhpur.

6. Jodhpur Pradushan Niwaran Trust,  
Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 361(T<sub>HC</sub>)/2013  
(DBCWP No. 9612/2010)**

**In the matter of:**

M/s Kiran Creations,  
27/B, Heavy Industrial Area,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Chairman,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Member Secretary/Commissioner,  
Rajasthan State Pollution Control Board,  
4, Paryavaran Marg, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. The Assistant Engineer (BIII),  
Medical College, Jodhpur DISCOM,  
Jodhpur.

5. The State of Rajasthan,  
Through its Secretary (Industries),  
Udyog Bhawan, Tilak Marg,  
Jaipur.

6. Jodhpur Pradushan Niwaran Trust,  
Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 362(T<sub>HC</sub>)/2013  
(DBCWP No. 3615/2011)**

**In the matter of:**

Mr. Anand S/o Shri Shankar Lal Paliwal  
Himica Textile,  
G.1-717, Derby Road,  
Marudhar Industrial Area Ph.II, Basni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through District Collector,  
Jodhpur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 363(T<sub>HC</sub>)/2013  
(DBCWP No. 8828/2012)**

**In the matter of:**

M/s Jojoba India Pvt. Ltd.,  
Through Mr. Jai Parkash Khatri,  
R/o 23B/77, Chopasni Housing Board,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Industrial Development and  
Investment Corporation Ltd.  
through Regional Manager,  
Mini Udyog Bhawan, New Power House Road,  
Jodhpur.

3. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

4. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.



5. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

6. Jodhpur Vidyut Vitran Nigam Ltd.,  
Through Superintending Engineer,  
Jodhpur

7. The Assistant Engineer (BIII),  
Medical College, Jodhpur DISCOM,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 364(T<sub>HC</sub>)/2013  
(DBCWP No. 2087/2013)**

**In the matter of:**

M/s Building Material,  
Through Mohd. Yakoob,  
F-143, MIA-2, Basni II Phase,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 365(T<sub>HC</sub>)/2013  
(DBCWP No. 2630/2013)**

**In the matter of:**

Nisar Mohammed,  
M/s Hussain Textile,  
1033/740, Raghav Nagar, Basni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Chief Secretary,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Nigam Ltd.,  
Through Superintending Engineer,  
Old Power House,  
Jodhpur

5. The Assistant Engineer (B.III),  
DISCOM, Medical College,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 366(T<sub>HC</sub>)/2013  
(DBCWP No. 2631/2013)**

**In the matter of:**

M/s Golden Emery Stone,  
H-116, BNPH New Jodhpur Industrial Area,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan Sectt.  
Jaipur.

2. Rajasthan State Industrial Development and  
Investment Corporation Ltd.  
through Regional Manager,  
Mini Udyog Bhawan, New Power House Road,  
Jodhpur.

3. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

4. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

5. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

6. Jodhpur Vidyut Vitran Nigam Ltd.  
through Superintending Engineer,  
Jodhpur

7. The Asistant Engineer(B.III),  
Jodhpur DISCOM, Medical College,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 367(T<sub>HC</sub>)/2013  
(DBCWP No. 2648/2013)**

**In the matter of:**

M/s Nisha Laboratories,,  
E-639, MIA-2, Basni II Phase,  
Jodhpur

..... Applicant

Versus



1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan Sectt.  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
Through its Managing Trustee,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 368(T<sub>HC</sub>)/2013  
(DBCWP No. 2649/2013)**

**In the matter of:**

M/s Gaurav Textile Mills  
(M/s Ankur Udyog),  
E-538(A), MIA-2, Basni II Phase,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan Sectt.  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur. Control B

3. The Regional Officer,  
Rajasthan State Pollution oard,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 369(T<sub>HC</sub>)/2013  
(DBCWP No. 2650/2013)**

**In the matter of:**

M/s Sun Textile,  
F-306 (A), MIA-2, Basni II Phase,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 370(T<sub>HC</sub>)/2013  
(DBCWP No. 2651/2013)**

**In the matter of:**

M/s Khatri Bhograj Motilal  
G-610, MIA-2, Basni II Phase,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 371(T<sub>HC</sub>)/2013  
(DBCWP No. 2707/2013)**

**In the matter of:**

M/s Kishore Kumar & Company,  
F-74, MIA-1, Basni Phase I,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 372(T<sub>HC</sub>)/2013  
(DBCWP No. 2709/2013)**

**In the matter of:**

M/s Chetan Knitwear,  
G-607, MIA-2, Basni Phase II,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 373(T<sub>HC</sub>)/2013  
(DBCWP No. 2710/2013)**

**In the matter of:**

M/s Mangal Textile  
F-304 & E-332A, MIA IInd Phase, Basni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.



3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 374(T<sub>HC</sub>)/2013  
(DBCWP No. 2713/2013)**

**In the matter of:**

M/s Bhawna Prints,  
E-517(A), MIA IInd Phase, Basni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 375(T<sub>HC</sub>)/2013  
(DBCWP No. 2730/2013)**

**In the matter of:**

M/s Jagdamba Fabrics  
Plots No.73/74, Near Ramdev Industries,  
Basni II Phase,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 376(T<sub>HC</sub>)/2013  
(DBCWP No. 2783/2013)**

**In the matter of:**

M/s Rishabh Creation,  
Balaji Nagar, Sangariya Industrial Area,  
Jodhpur ..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 377(T<sub>HC</sub>)/2013  
(DBCWP No. 2784/2013)**

**In the matter of:**

M/s Pari Impex,  
Balaji Nagar, Sangariya Industrial Area,  
Jodhpur ..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 378(T<sub>HC</sub>)/2013  
(DBCWP No. 2785/2013)**

**In the matter of:**

M/s Bhandari Impex,  
Balaji Nagar, Sangariya Industrial Area,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 379(T<sub>HC</sub>)/2013  
(DBCWP No. 2888/2013)**

**In the matter of:**

M/s L.R. Creation,  
Village Dhinana Ki Dhani,  
Near Junao Ki Dhani,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.



5. The Asistant Engineer (B-5),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 380(T<sub>HC</sub>)/2013  
(DBCWP No. 2892/2013)**

**In the matter of:**

Suban Khan s/o Dilawar Khan,  
M/s Shirin Textile,  
E-326, MIA IInd Phase, Basni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Chief Secretary,  
Government of Rajasthan Secretariat,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Nigam  
Through the Superintending Engineer,  
Old Power House,  
Jodhpur.

5. The Asistant Engineer (B-4),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 381(T<sub>HC</sub>)/2013  
(DBCWP No. 2896/2013)**

**In the matter of:**

M/s Veetex Creation,  
3, C/D, Vivekanand Udhyog Nagar,  
Near Derby Textile,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Chief Secretary,  
Government of Rajasthan Secretariat,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
Through the Managing Trustee, CETP,  
Plot No.SP-1, Sangaria Industrial Area Phase II,  
Jodhpur

5. The Asistant Engineer (B-5),  
Jodhpur Vidyut Vitran Ltd.,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 382(T<sub>HC</sub>)/2013  
(DBCWP No. 2899/2013)**

**In the matter of:**

M/s Rajesh Exporter & Importer  
and Sona Textile,  
1<sup>st</sup>, A-14, Chopasni Housing Board,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 383(T<sub>HC</sub>)/2013  
(DBCWP No. 2900/2013)**

**In the matter of:**

M/s Bhawani Industries,  
Through its Proprietor Shri Anil Kumar,  
G-73, Shastri Nagar,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 384(T<sub>HC</sub>)/2013  
(DBCWP No. 2901/2013)**

**In the matter of:**

M/s Vardhman Industries,  
Through its Proprietor Shri Sandeep Kumar Golechha,  
G-73, Shastri Nagar,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 385(T<sub>HC</sub>)/2013  
(DBCWP No. 2903/2013)**

**In the matter of:**

M/s Kamdhenu Madeup & Garments,  
Through its Proprietor Shri Oma Ram,  
R/o Junavo Ki Dhani, Village & Post Pal,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 386(T<sub>HC</sub>)/2013  
(DBCWP No. 2904/2013)**

**In the matter of:**

M/s Adarsh Creations,  
Through its Proprietor Shri Pavitra Golecha,  
269, 4<sup>th</sup> 'B' Road, Sardarpura,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur



4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 387(T<sub>HC</sub>)/2013  
(DBCWP No. 2905/2013)**

**In the matter of:**

M/s JMD Industries,  
Through its Manager Shri Madan Lal,  
R/o Dhinano Ki Dhani, near Junavo Ki Dhani,  
Village & Post Pal,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 388(T<sub>HC</sub>)/2013  
(DBCWP No. 2906/2013)**

**In the matter of:**

M/s Pakija Fabrics,  
Through its Proprietor Shri Nishar Mohd.,  
Khasras No.176/6 and 176/77,  
Main Salawas Road  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 389(T<sub>HC</sub>)/2013  
(DBCWP No. 2907/2013)**

**In the matter of:**

M/s Maheshwari Fabrics,  
Through its Proprietor Smt. Kavita Sharma,  
Khasras No.115, 115/2, Village Salawas,  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 390 (T<sub>HC</sub>)/2013  
(DBCWP No. 2908/2013)**

**In the matter of:**

M/s Suncity Holding & Trading Ltd.,  
Through its Director Sh. G.M. Singhvi,  
Resident of 73, Dev Nagar,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Regional Office, Special Plot No.2,  
Marudhar Industrial Area, 1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 392(T<sub>HC</sub>)/2013  
(DBCWP No. 2962/2013)**

**In the matter of:**

M/s Dhanlaxmi Prints  
Through the Proprietor Ramesh Vijayvargia.  
Gandhi Mohalla, City Police,  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO. 393(T<sub>HC</sub>)/2013  
(DBCWP No. 2963/2013)**

**In the matter of:**

M/s M.B. Industries,  
Through its Proprietor Sandeep Dhidharia,  
B-132, Saraswati Nagar,  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.394(T<sub>HC</sub>)/2013  
(DBCWP No. 2964/2013)**

**In the matter of:**

M/s Salasar Balaji Industries,  
Through its Proprietor Pradeep Choudhary,  
173, Saraswati Nagar,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND



**ORIGINAL APPLICATION NO.395(T<sub>HC</sub>)/2013  
(DBCWP No. 2965/2013)**

**In the matter of:**

M/s Jitendra Industries,  
Through its Proprietor Jitendra Dhidharia,  
132-B, Saraswati Nagar,  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.396(T<sub>HC</sub>)/2013  
(DBCWP No. 2966/2013)**

**In the matter of:**

M/s Vineeta Fabrics,  
Through its Proprietor Mahesh Chandra Pal,  
18/366, Chopasni Housing Board,  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.397(T<sub>HC</sub>)/2013  
(DBCWP No. 2967/2013)**

**In the matter of:**

M/s Balaji Industries,  
Through its Proprietor Smt.Neeru Choudhary,  
132-B, Saraswati Nagar,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.398(T<sub>HC</sub>)/2013  
(DBCWP No. 2968/2013)**

**In the matter of:**

M/s Ambika Sales,  
Through its Manager Shri Hemant Ramdeo,  
Vyas Park, Chandpole Ki Ghati,  
173, Saraswati Nagar,  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.399(T<sub>HC</sub>)/2013  
(DBCWP No. 2969/2013)**

**In the matter of:**

M/s Anusha Fashion,  
Through its Proprietor Shri Prakash Jain,  
H-74-B, Shashtri Nagar,  
Jodhpur ..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur

4. Jodhpur Vidyut Vitran Ltd.,  
Through the Assistant Engineer (O&M),  
Jodhpur DISCOM,  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.400(T<sub>HC</sub>)/2013  
(DBCWP No. 2984/2013)**

**In the matter of:**

Mr. Dinesh Kumar Gupta,  
14/1000, Housing Board,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries Secretariat,  
Jaipur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.401(T<sub>HC</sub>)/2013  
(DBCWP No. 3039/2013)**

**In the matter of:**

Mr. Hemant Prints,  
Plots No.41-42, Khasra No.228/48,  
Village Tanawada, Tehsil Luni  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries Secretariat,  
Jaipur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.402(T<sub>HC</sub>)/2013  
(DBCWP No. 3040/2013)**

**In the matter of:**

M/s P.S. Industries,  
Through its Proprietor Kishore Arora,  
R/o Arpit-422, 1<sup>st</sup> D. Road, Sardarpura,  
Jodhpur

..... Applicant

Versus



1. State of Rajasthan  
Through the Secretary,  
Department of Industries Secretariat,  
Jaipur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.403(T<sub>HC</sub>)/2013  
(DBCWP No. 3044/2013)**

**In the matter of:**

M/s Siddhi Vinayak Prints,  
Through its Proprietor Shreekant Kulkarni,  
R/o 18 E-544, CHB,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries Secretariat,  
Jaipur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.404(T<sub>HC</sub>)/2013  
(DBCWP No. 3046/2013)**

**In the matter of:**

M/s Saraswati Textile,  
Plot No.10, Rishab Nagar Industrial Area,  
Salawas Road, Village Tanawada, Tehsil Luni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries Secretariat,  
Jaipur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.405(T<sub>HC</sub>)/2013  
(DBCWP No. 3047/2013)**

**In the matter of:**

M/s Maharani Fabrics,  
Plot No.11, Khasra No.26/1/1/16,  
Salawas Road, Village Tanawada, Tehsil Luni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries Secretariat,  
Jaipur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.406(T<sub>HC</sub>)/2013  
(DBCWP No. 3091/2013)**

**In the matter of:**

M/s Ramdev Creations,  
Through its Proprietor Kalpit Bothra,  
R/o 217, Narpat Nagar, Pal Road,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.407(T<sub>HC</sub>)/2013  
(DBCWP No. 3095/2013)**

**In the matter of:**

M/s Monika Industries  
Through its Proprietor Manish Kumar,  
Plot No.52, Masuria Artisian Colony,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.408(T<sub>HC</sub>)/2013  
(DBCWP No. 3115/2013)**

**In the matter of:**

M/s Jakeer Hussain Handicraft,  
Through its Proprietor Jakeer Husain,  
R/o Shantipriya Nagar Road,  
Plot No.39, Cheerghar,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.409(T<sub>HC</sub>)/2013  
(DBCWP No. 3116/2013)**

**In the matter of:**

M/s Ajanta Creations,  
Through its Proprietor Meena Jain,  
R/o 10/B, Subhash Nagar,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur.



4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.409(T<sub>HC</sub>)/2013  
(DBCWP No. 3116/2013)**

**In the matter of:**

M/s A.S. Fashions,  
Through its Proprietor, Aminuddin Khan,  
R/o Near Yateem Khana, Khanda Falsa,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.411(T<sub>HC</sub>)/2013  
(DBCWP No. 3118/2013)**

**In the matter of:**

M/s Mamta Fabrics Prints,  
Through its Proprietor Smt. Mamta Gaur,  
R/o Rajeev Gandhi Colony, Pal Link Road,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.412(T<sub>HC</sub>)/2013  
(DBCWP No. 3121/2013)**

**In the matter of:**

M/s Babu Lal Gaur HUF,  
Through its Proprietor Babu Lal Gaur,  
R/o 3/26, DDP Nagar, Madhuban Housing Board,  
Jodhpur

..... Applicant

Versus

1. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

2. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

3. Jodhpur Development Authority,  
Through the Commissioner,  
Jodhpur.

4. Jodhpur Vidyut Vitran Ltd., DISCOM,  
Through its Assistant Engineer (O&M),  
Jodhpur

.....Respondents

AND

**ORIGINAL APPLICATION NO.415(T<sub>HC</sub>)/2013  
(SBCWP No. 8044/2007)**

**In the matter of:**

M/s Vivek Kumar,  
S/o Shri Vishnu Das,  
R/o Shobhavton Ki Dhani,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through Secretary (Environment),  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. Senior Environmental Engineer-II,  
Rajasthan State Pollution Control Board  
Through its Member Secretary,  
Institutional Area, Jhalana Doongri,  
Jaipur

.....Respondents

AND

**ORIGINAL APPLICATION NO.416(T<sub>HC</sub>)/2013  
(SBCWP No. 5596/2011)**

**In the matter of:**

M/s Gautam Timber,  
G-94, New Jodhpur Industrial Area,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Vidyut Vitran Nigam Ltd.,  
Through the Superintending Engineer,  
Jodhpur.

5. Jodhpur Pradushan Niwaran Trust,  
CETP, Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

..... Respondents

AND

**ORIGINAL APPLICATION NO. 418(T<sub>HC</sub>)/2013  
(SBCWP No. 12092/2012)**

**In the matter of:**

Om Prakash  
S/o Late Shri Parasmal Golecha,  
M/s Jai Laxmi Impex,  
G-1-110, BNPH, New Industrial Area,  
Jodhpur

.....Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
Through Executive Secretary,  
Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 419 (T<sub>HC</sub>)/2013  
(SBCWP No. 3045/2013)**

**In the matter of:**

M/s Jagdamba Fabrics,  
Khasra No.26/5, Main Salawas Road,  
Village Tanawada, Tehsil Luni,  
Jodhpur

..... Applicant

Versus

1. State of Rajasthan  
Through its Secretary,  
Department of Industries Secretariat,  
Jaipur

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. The Assistant Engineer (B-4),  
Jodhpur Vidyut Vitran Nigam Ltd.,  
Jodhpur DISCOM,  
Jodhpur

.....Respondents



**ORIGINAL APPLICATION NO. 49 (T<sub>HC</sub>)/2014  
(SBCWP No. 12956/2013)**

**In the matter of:**

M/s Western Wooden Handicraft,  
Through its Proprietor Abdul Wahid,  
Plot No.7/3/E, Vyas Ji Ki Bawari,  
Near Basni Phase II,  
Jodhpur .

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
Through Executive Secretary,  
Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

.....Respondents

AND

**ORIGINAL APPLICATION NO. 451 (T<sub>HC</sub>)/2013  
(SBCWP No. 11518/2012)**

**In the matter of:**

M/s Gurucharan Enterprises,  
Through the Proprietor Smt. Heera Devi,  
G-584, Basni II Phase, Gali No.9,  
M.I.A.,  
Jodhpur .

..... Applicant

Versus

1. State of Rajasthan  
Through the Secretary,  
Department of Industries,  
Government of Rajasthan,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.

3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.

4. Jodhpur Pradushan Niwaran Trust,  
Through Executive Secretary,  
Plot No.SP-1, Sangaria Industrial Area,  
2<sup>nd</sup> Phase, Sangariya,  
Jodhpur.

5. The Assistant Engineer(B-4),  
Jodhpur Vidyut Vitran Nigam Ltd.,  
Jodhpur

....Respondents

AND

**ORIGINAL APPLICATION NO. 451 (T<sub>HC</sub>)/2013  
(SBCWP No. 1571/2011)**

**In the matter of:**

M/s Leela Tex Exports,  
Through its Partner Naresh Kumar Lila,  
Resident of 2 B, Shastri Nagar,  
Jodhpur .

..... Applicant

Versus

1. State of Rajasthan  
Through its Secretary,  
Department of Industries Secretariat,  
Jaipur.

2. Rajasthan State Pollution Control Board  
Through its Member Secretary,  
4, Institutional Area, Jhalana Doongri,  
Jaipur.
3. The Regional Officer,  
Rajasthan State Pollution Control Board,  
Special Plot No.2, Marudhar Industrial Area,  
1-Phase, Basani,  
Jodhpur.
4. Jodhpur Vidyut Vitran Nigam Ltd.,  
Through the Superintending Engineer,  
Jodhpur
5. The Assistant Engineer (B.III),  
Jodhpur Vidyut Vitran Nigam Ltd.,  
Medical College, Jodhpur DISCOM,  
Jodhpur
6. Jodhpur Pradushan Niwaran Trust  
Through the Executive Trustee,  
Plot No.S.P. No.1, Sangaria II Phase, Sangaria,  
Jodhpur

.....Respondents

**Counsel for Applicant:**

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Mr. Manish Patel, Advocate  
Mr. Siddharth Tatiya, Advocate  
Mr. Ram Rakhvya, Advocate  
Mr. Sandeep Shah, Advocate  
Mr. B.S. Sandhu, Advocate  
Mr. Umesh Shrimali, Advocate  
Mr. D.N. Vyas, Advocate  
Mr. Rajat Dave, Advocate  
Mr. Ram Pakmuya, Advocate  
Mr. Kunal Kanungo, Advocate

**Counsel for Respondents :**

Mr. Manish Shishodia and  
Mr. Shreyansh Mehta, Advocates for Rajasthan SPCB  
Mr. Dinesh Mehta, Advocate for  
Jodhpur Pradushan Niwaran Trust, Jodhpur  
Mr. V.K. Bhadu, Advocate for  
Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur  
Mr. Manoj Bhandari, Advocate for  
Jodhpur Development Authority, Jodhpur

## **JUDGMENT**

### **PRESENT:**

**Hon'ble Mr. Justice Swatanter Kumar (Chairperson)**  
**Hon'ble Mr. Justice M.S. Nambiar, Judicial Member**  
**Hon'ble Prof. (Dr.) P.C. Mishra, Expert Member**  
**Hon'ble Dr. R.C. Trivedi, Expert Member**

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**Dated : May 1<sup>st</sup>, 2014**

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### **JUSTICE SWATANTER KUMAR (CHAIRPERSON):**

By this judgment, we shall dispose of the above 62 appeals/applications, as they raise common questions of law, based upon somewhat similar facts before the Tribunal.

2. Thus, in view of above, it is not necessary for us to notice facts, in any greater detail, of all the appeals/applications. Suffice would it be to refer to the facts of the Original Application No. 358(T<sub>HC</sub>)/2013 (S.B. Civil Writ Petition No. 8074/2010) and limited reference of facts in other connected appeals/applications.

### **FACTS:**

3. The State of Rajasthan had handed over a piece of land to the Rajasthan State Industrial Development and Investment Corporation Limited (for short the "RIICO") for the purpose of setting up an industrial area. RIICO planned the land into plots for leasing out to industrialists for erection/setting up/establishing industrial units. These industrial premises allotted by RIICO were to be used for manufacture of industrial products by the respective units.

4. M/s Laxmi Suiting (for short “the applicant”) is a proprietorship concern, carrying on the business of washing and dying of fabrics at Jodhpur. The RIICO had developed a Heavy Industrial Area in Jodhpur. M/s Laxmi Suiting applied for a plot of land in the said Heavy Industrial Area in the year 2004. This was allotted to the applicant and a lease agreement dated 16<sup>th</sup> December, 2004 was executed between the applicant and the RIICO in respect of Plot No.20/5(1) at the Heavy Industrial Area, Jodhpur. The lease deed was executed in furtherance to Rule 11 of the RIICO Disposal of Land Rules, 1979.

5. Some of the clauses of the said lease deed, which are relevant for taking a decision in the present application can be usefully reproduced at this stage as under:

“2(c) That the Lessee will obey and submit to the rules of Municipal or other competent authority now existing or thereafter to exist so far as they relate to the immovable property or affect health, safety, convenience of the other inhabitants of the place.

2(d) That the Lessee will erect the industrial unit on the demised premises in accordance with the site plan and will complete construction activities within a period of two years and start commercial production within a period of three years from the date of these presents or from the date of possession, whichever be earlier, or within such extended period as may be allowed by the lessor in writing at its discretion on payment of retention charges or otherwise.

Provided that unutilized land of the allotted plot or plots shall revert to the lessor on expiry of the prescribed/extended period for starting production/expansion of the unit.

XXXXX

XXXXX

XXXXX



2(ee) The lessee shall become a member of the Association / Agency created for setting up and operating the Common Effluent Treatment CETP (CETP) and Solid Waste (Hazardous and Non-Hazardous) Disposal System (SWDS). All the Capital & Revenue expenses relating to acquisition, operation and maintenance of CETP & SWDS shall be borne by all members of Association / Agency in the proportion decided by the Committees of the said Association / Agency.

2(f) That the Lessee shall take all measures, which are required for Pollution Control and shall strictly adhere to the stipulations imposed by Rajasthan State Pollution Control Board (for short the "Board") and other statutory pollution laws of the State for the time being in force.

XXXXX

XXXXX

XXXXX

2(h) That the Lessee will not carry on or permit to be carried on, on the demised premises any obnoxious trade or business whatsoever or use the same or permit the same to be used for any religious purpose or any purpose other than for the Industrial purposes as aforesaid without the previous consent in writing of the Lessor and the Local Municipal Authority and subject to such terms and conditions as the Lessor / Local Municipal Authority may impose and will not do or suffer to be done, on the demised premises or any part thereof any act or thing which may be or grow to be a nuisance, damage, annoyance or inconvenience to the Lessor or Local Municipal Authority or the owner or occupiers of other premises in the neighbourhood.

6. During the process of establishing its Common Effluent Treatment Plant (for short the "CETP") in the Heavy Industrial Area, the applicant moved an application for obtaining consent to establish and operate the same, to the Jodhpur Pradushan Niwaran Trust (for short the "Trust"). The tentative date of completion of the project was 15<sup>th</sup> June, 2008. According to the applicant, the Trust is a body established by its trustees. With the sanction and permission from the Government, it established a CETP and gave permission to the members, like

the applicant, to discharge effluents into the drain that would be carried to the CETP of the Trust and treated there prior to further discharge. According to the applicant, it was an arrangement, of course, not barred by any statutory provision, that the industrial units in the RIICO Heavy Industrial Area were required to discharge their effluents into the drain which were to be treated at the CETP established by the Trust, for which purpose the membership of the Trust was given to the industrial units. Through a common drain, the trade effluents from the industrial units were carried to the CETP of the Trust. All kinds of discharge, whether acidic or alkaline in nature, were treated at the CETP, thereby minimizing the chances of polluting the environment.

7. The application of the applicant herein to the Trust remained pending for a considerable time and ultimately, vide order dated 8<sup>th</sup> July, 2008, it was rejected by the Trust. The relevant part of the said order of the Trust reads as under:

“Your discharge quantity of effluent shown in the application is not justified therefore membership is not granted.”

8. Having received the above order, the applicant submitted a representation dated 5<sup>th</sup> August, 2008 to the Trust, stating therein that with the same kind of discharge as that of the petitioner's unit, some other units have been given membership and the impugned action was apparently discriminatory. Similar letter was also written by the applicant on 17<sup>th</sup> February, 2008 and a further request was made to the

Trust to give membership to the applicant. Despite his meeting with the Managing Trustee of the Trust, the order dated 8<sup>th</sup> July, 2008 was neither revoked nor modified. According to the applicant, the reason behind rejecting the application, that the quantity of effluent shown being not justified, was without any basis. On 23<sup>rd</sup> September, 2009, a social worker and an ex-trustee of UIT, submitted an application before the Trust seeking certain information about the working of the Trust, and later on, an application was also filed under the Right to Information Act, 2005 for the same. As a result of this exercise, it was revealed that neither the Trust nor the CETP was working properly. In terms of the information, it was revealed that the capacity of the CETP was 20 MLD, out of which 15 MLD of acidic and 5 MLD of alkaline water could be treated. Further, 1-1.5 MLD of acidic and 10-12 MLD of alkaline water is received by the CETP and treated thereupon. Thus, the total capacity of the CETP having been exhausted, was not a correct statement. The applicant has also stated that as per the information received, 127 steel re-rolling industries are permitted to operate by the Rajasthan Pollution Control Board (for short the "Board") and are connected to the CETP. No flow meter etc. are installed in any of the units to measure the nature and volume of the waste water being discharged from different units or being received by the CETP from the units. As many as 138 textile units are also working at Jodhpur and none of these units have obtained or have

been given consent by the Board to establish and operate in that area.

9. The applicant has also placed documents on record to show that as back as on 5<sup>th</sup> August, 2008, the Board, while dealing with the application for renewal of the consent dated 16<sup>th</sup> January, 2008 submitted by the Trust, issued a show cause notice asking the Trust to explain as to why it should not be ordered to be closed down immediately as well as water and electricity supply to the CETP be not disconnected immediately. However, this was not pursued any further and the CETP is operating till date. It is contended that this is clear evidence of the fact that CETP is not functioning properly and to its optimum capacity.

10. The working of the CETP was inappropriate and was not in consonance with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (for short the "Water Act") and the Water (Prevention and Control of Pollution) Rules, 1975 (for short the "Water Rules") framed thereunder. There is no averment in the application of the applicant that it had ever applied for obtaining consent of the Board for establishment and operation of the unit. It is also clear from the records that neither such consent was applied for nor was it ever granted in the case of the applicant.

11. After the application of the applicant for obtaining membership was rejected vide order dated 8<sup>th</sup> July, 2008 after



a lapse of nearly two years, the Board, in exercise of the powers vested in it under Section 33A of the Water Act, directed to close down the industrial unit of the applicant, vide its order dated 10<sup>th</sup> August, 2010, and in the event of failure to comply with the said order, it was stated that, it being a criminal offence, would be punishable under Section 41(2) of the Water Act. In this very order, it was stated that the unit had not obtained NOC from the Trust, the discharge of polluted trade effluents from the unit was reaching the CETP, thus, disrupting its functioning and an inspection was conducted on 9<sup>th</sup> October, 2010 during which, it was noticed that the unit was operating without obtaining the consent to establish and operate from the Board and was discharging trade effluents in violation of the Water Act. For these reasons, the Board had passed the order directing closure of the unit.

12. The applicant, thus, questions the legality and correctness of the two orders, namely the order 8<sup>th</sup> July, 2008 passed by the Trust rejecting the application of the applicant for membership and the order dated 10<sup>th</sup> August, 2010 passed by the Board directing closure of the unit in question.

13. The applicant also claims that it had moved an application to the Board on 17<sup>th</sup> August, 2010 for obtaining its consent to operate in furtherance to which the unit was inspected by a team of officers of the Board on 16<sup>th</sup> November, 2010. The said application has not been finally disposed of



and as such the consent of the Board would be deemed to have been granted under Section 25(7) of the Water Act.

14. The facts of other cases are somewhat similar, but in some of the cases, the units had submitted applications for obtaining consent of the Board, out of which, in some cases, the consent sought was refused while in other cases, their applications are still pending determination by the Board. Still, there are other cases in which the industrial units hold the membership of the Trust and have applied for obtaining consent of the Board under the provisions of the Water Act. These applications were moved on different dates, for instance in the case of Original Application No.361 (T<sub>HC</sub>) of 2013, the application was filed on 30<sup>th</sup> August, 2010, which is stated to be still pending with the Board. Still there is another bunch of cases where the industrial units are operating outside the earmarked or specified industrial area. Such industries are located on agricultural land. They have applied for conversion of the user of the land for purposes other than agricultural i.e. industrial purpose, which applications are still pending. There are also certain applicants who have either not applied for or obtained consent or have applied for but for want of land use conversion certificate, their applications have not been disposed of by the Board. In this category, there are transferred applications No.400-402 and 405 (T<sub>HC</sub>) of 2013.

15. The Trust or the Board, as the case may be, has passed somewhat identical orders in most of the cases with the exception of a few. Majority of the cases where identical orders have been passed, which we shall deal with them hereinafter under one head while the others, we will proceed to mention and discuss separately. The common challenge to the orders passed by the Trust or the Board against the applicant concerned, is *inter alia* but primarily on the following grounds:

(i) The action of the Trust or the Board, as the case may be, is unfounded and arbitrary. It is the case of the applicants that the CETP of the Trust has the capacity to take further load of trade effluents for treatment. Thus, the reason given for revocation is without any basis. There are 29 industries which have closed down in the meanwhile. The claim of the applicant should be adjudged against discharge of such industries. Furthermore, the Trust has increased the capacity of the existing CETP unit by more than three-fold on the one hand while they have declined membership to the applicants on the other.

(ii) The Board has passed the impugned orders without applying the principles of natural justice. The applicants were neither given any show cause notice nor were heard before passing of the impugned order. The Board is required to comply with the procedure and afford an opportunity to the applicant, as contemplated under Rule 34 of the Water Rules

before passing orders under Section 33A of the Water Act. Non-compliance by the Board with the statutory rules vitiates the order in its entirety.

(iii) The applications submitted by the applicants for obtaining the consent of the Board for operating their units, having been kept pending for years, would be deemed to have been granted permission in terms of Section 25(7) of the Water Act. Thus, neither any action could be taken nor any prohibitive direction under Section 33A of the Water Act could be issued by the Board. The State Government, the Board and the Trust are failing to discharge their Constitutional and statutory obligations in relation to prevention and control of pollution on the one hand, while on the other, are taking coercive measures to the extent of depriving the applicants of the source of their livelihood.

16. On behalf of the respondents, a stand has been taken that all the industries/units are operating without obtaining consent of the Board. The units are discharging trade effluents into the drain or on the open land, thus causing serious water or underground water pollution. Reliance has been placed upon the report of the Rajasthan State Pollution Control Board, prepared on the basis of the inspection conducted from 8<sup>th</sup> to 11<sup>th</sup> November, 2014. According to the Board, out of the 62 applications herein, in 22 cases, the consent to establish/operate has been refused and 10 applications were

pending before the Board. Further, according to the respondent, the remaining of the 62 applicants have not even filed any application for obtaining consent of the Board. The industries cannot be permitted to continue to cause pollution and the private interest of these applicants must give in to the public interest of maintaining proper quality of environment and preventing the pollution. Thus, the order directing closure of these units is fully justified in the facts of the case. The industries operating in the non-conforming zones are a more serious threat to environment as they have neither the consent from the Trust nor from the Board to operate. They are located in agricultural areas and their textile activities, thus, expose the environment to a potentially greater damage and degradation.

17. The Trust has stated, and in fact reiterated, during the course of arguments, that the CETP established by the Trust has a capacity of 20 MLD – 15 MLD for treating alkaline and 5 MLD for treating acidic effluents. Presently, they are treating 11 MLD of alkaline effluents of textile and 3 MLD of acidic effluents of steel industries, thus operating at a capacity of 14 MLD. The reason for rejecting the consent of the applicants by the Trust was not the capacity of the CETP but the incorrect description and disclosure by the industries in relation to the discharge of effluents. None of these industries have installed flow meters in their premises. According to the Trust, they are

presently treating only 50% of the effluents while the remaining 50% goes directly into the river through the drains as untreated.

18. The total land that was made available to the Trust was 9 acres and presently the CETP is situated within 5 acres on the said land. It has laid down conduit pipeline for collecting the trade effluents of its members, particularly in relation to textile industries and would be treating the entire effluents that they receive through this pipeline. Connection to this pipeline would be provided only to the members who have been given consent to discharge effluents into the drain. This pipeline is expected to be completed by the end of April, 2014. The CETP is presently operating to its optimum capacity and the 212 members of the Trust from the textile industry are discharging nearly 11.851 MLD of trade effluents while the steel industry is discharging 3.15 MLD. The Trust has plans to upgrade its CETP but has not been able to do it for a variety of reasons including financial limitations.

19. The State of Rajasthan has not put up any specific reply or advanced any contention. Of course, it was stated, which the Tribunal must record with appreciation, that in discharge of its obligations – institutional and statutory – the State Government had agreed to take such measures and provide such assistance and resources to the various bodies concerned with the prevention and control of pollution to



ensure that this entire industrial area and other surrounding industries do not cause any pollution.

20. However, the common contention is that the applicants who have even moved applications for obtaining consent of the Board are not entitled to derive any benefit under Section 25(7) of the Act inasmuch as there was inordinate delay in filing of applications, that too incomplete ones, and they have been causing pollution for years. Thus, the contentions of the applicants, according to the respondent, are liable to be rejected and the applications deserve to be dismissed.

21. Before we proceed to discuss the merits or otherwise of the contentions raised by the respective parties before us in the light of the above factual matrix, we would first refer to the appeals which need to be dealt with separately for the reasons recorded below:

OA No.373 (T<sub>HC</sub>) of 2013 – MANGAL TEXTILES V. STATE OF RAJASTHAN (DB CIVIL WRIT PETITION NO.2710 of 2013) BEFORE THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

22. This is a case where the petitioner has raised a challenge to the show cause notices dated 27<sup>th</sup> December, 2011 and 11<sup>th</sup> September, 2012 issued by the Board under Sections 33A and 25/26 of the Water Act respectively. The applicant was asked vide the first notice dated 27<sup>th</sup> December, 2011, to show cause as to why direction of closure under Section 33A of the Water Act be not issued against the industry and through the second

notice dated 11<sup>th</sup> September, 2012, as to why the consent applied for be not refused. The other connected relief was also prayed for.

23. No order of closure or refusal to grant consent has been placed on record, which might have been passed by the Board in furtherance to the show cause notices afore-referred. It is obvious that the applicant is neither in possession of the said premises nor is carrying on any textile industry thereat. However, after service of these notices, the applicant who appeared in person before the Tribunal, admitted that he is not carrying on any business in F-304A and 332A, Industrial Area, Basni IInd Phase, Jodhpur district, the premises in question and is not in possession of any part of the said industrial plot. He has rented out the premises to different tenants who are carrying on textile activities in the said premises in their own name and style and that the firm, M/s Mangal Textiles, does not exist in the said premises. None of the stated tenants or occupants are parties to the application and he is not aware whether their business has been ordered to be closed by an order passed by the Board. In light of these facts, which were stated during the course of the hearing and are undisputed, it is obvious that there is no cause of action against the applicant, Mangal Textiles, a sole proprietorship concern, which subsists against it as of now or in fact even at the time of filing of the application. Since the applicant has

neither any cause of action nor any *locus standi* and cannot be said to be aggrieved by the issuance of the show cause notices afore-referred, we find no reason to entertain this application. Accordingly, OA No.373 of 2013 is dismissed. We, however, make it clear that the dismissal of this application would not affect the rights of the persons who are in possession of the premises as tenants of the applicant. There shall be no order as to costs.

OA No.370 (T<sub>HC</sub>) of 2013 – M/s KHATRI BHOGRAJ MOTILAL V. STATE OF RAJASTHAN (DB CIVIL WRIT PETITION NO.2651 OF 2013) BEFORE THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

24. This is the application filed by the applicant raising a challenge to the show cause notice dated 27<sup>th</sup> December, 2011 passed by the Secretary of the Board, requiring the applicant to show cause as to why a direction of closure in terms of Section 33A of the Water Act be not issued against him. The challenge is also raised against the order dated 3<sup>rd</sup> January, 2009 issued by the Trust, rejecting the application for consent for discharge of the trade effluents into the CETP run by the Trust. It is also prayed in the application that the electricity, which was directed to be disconnected, in the said premises may be ordered to be restored.

25. During the course of the hearing, the learned counsel appearing for the applicant submitted that after issuance of the said notice and during the operation of the stay granted by

the High Court in the above mentioned Writ Petition, they have installed all anti-pollution devices, carried out the directions issued by the Board and that their industry is compliant and a non-polluting one. If that be so, there is nothing for the Tribunal to examine the merits or demerits of the challenge raised in the present application. Suffices it to note that the applicant has prayed to move a fresh application before the Board and the Trust within two weeks from today. If such application is filed within the time allowed, the Board and the Trust shall consider the said application expeditiously and in any case not later than six weeks from the date of its filing. Needless to notice that consideration of such application shall be in accordance with law and in terms of this judgment.

26. This application is, therefore, disposed of with the above direction, leaving the parties to bear their own costs.

27. Now we would proceed to discuss the contentions, as afore-noticed, raised before us. However, we will take the last contention first. It needs to be noticed that some of the units had obtained consent from the Trust to discharge trade effluents into the drain. Some of the industries, which did not have such a consent, had applied to the Board for obtaining its consent in terms of Section 25 of the Water Act. These applications are pending. The Board has neither granted the consent nor refused the same. According to the applicants,

with the aid of Section 25(7) supra, they would be deemed to have been granted the consent unconditionally as the period of four months has lapsed from the date of submission of their applications. The applications, in such cases, had been moved at different times and in the case of Original Application No.361(T<sub>HC</sub>)/2013, the application was moved on 30<sup>th</sup> August, 2010, which is stated to be still pending with the Board. Thus, the argument advanced is that the benefit contemplated under Section 25(7) supra accrues in favour of the applicants and they are entitled to operate the industry irrespective of the fact that they have not been granted consent to operate by the Board. In order to appreciate the merits of this contention, we must refer to the relevant provisions of the Water Act which are reproduced below:

“25. Restrictions on new outlets and new discharges:

(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,--

(a) establish or take any steps to establish any industry operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this Section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage:

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act,



1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1), shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

(4) The State Board may -

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being -

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order,

and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or, a new or altered outlet is brought into use

for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on, an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars, of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30, -

(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;

(b) the expression "new discharge" means a discharge which is not, as respects the nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge."

28. The above provisions make it clear that they prohibit any person from establishing or taking any steps to establish any industry or process, or any treatment and disposal system, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land, without the previous consent of the Board in terms of Section 25(1) supra. Similarly, no person is entitled to bring into use any new or altered outlet for discharge of sewage or begin to make any discharge of sewage without the specific consent of the Board. Under the scheme of the above provisions, an application has to be moved to the Board for the purpose of obtaining the consent. The Board is required to make such inquiries as it may deem fit. After following the prescribed procedure, the Board may grant its consent, subject to such conditions as it may deem fit and proper, or/and fix the duration during which such consent shall be operative. The Board may also refuse the consent for reasons to be recorded in writing. In terms of Section 25(5) supra, where any industry, operation, process or any treatment and disposal system has been brought into use for the discharge of sewage or new discharge of sewage is made without consent, the Board is empowered to serve a notice upon the person who has established or taken steps for such operation or process, and impose any condition as it might have imposed on the application for its consent in respect of such establishment, outlet or discharge. A bare reading of Section 25(7) supra entitles the applicant who has

submitted an application, complete in all respects, and if such application has remained pending for grant or refusal of consent for a period of four months, it would be deemed to have been granted unconditional consent on the expiry of the period of four months. The Section which grants benefit to a person against the normal course of law has to be construed strictly. Such a provision must be construed on its plain and strict reading so as to ensure that such a deeming fiction is not permitted to be abused and does not frustrate the very object of the legislation. To take the benefit of the deeming fiction contemplated under Section 25(7), one must satisfy the following conditions:

- (a) The application for obtaining the consent has to be complete in all respects.
- (b) Upon such application, the Board has neither granted nor refused the consent for a period of four months of the making of such application.

29. It is upon fulfilment of these two conditions that a person can claim benefit of the deeming fiction in terms of Section 25(7) supra. If these conditions are not satisfied, then it will not trigger the consequences of this provision. The purpose of Section 25(7) supra is not to benefit the defaulters of law or the persons who have started their units even without making an application in terms of Section 25 supra to the Board concerned. The prohibition contained under Section 25(1)

supra is both for establishment and operation of any unit, process or CETP. Section 25(1) supra has intentionally been worded by the legislature in very wide terms and no industry or unit, which is likely to discharge sewage or effluent during its process, can fall outside the ambit of this Section. The expression under Section 25(1) states that no person shall establish or take any steps to establish, without the previous consent of the State Board, any industry, operation or process. This is indicative of the legislative intent to place complete embargo not only upon the establishment but also from taking any step to establish an industry, operation or process, which is likely to discharge sewage or trade effluent into a stream or well or sewer or even on land. The provision of Section 25(7) supra itself has to be examined and interpreted in the light of the legislative scheme contained not only under Section 25 but other provisions of the Act.

30. It is a settled principle of statutory interpretation that while interpreting any provision of a statute, the scheme of the Act, legislative intent and its inter-relations with other provisions of the same statute are relevant considerations. When the question arises as to the meaning of a provision in the statute, it is not only legitimate but also proper to read that provision in its context. The 'context' means the statute as a whole, the previous state of the law, other statutes in *para materia*, the general scope of the statute and the mischief



that it was intended to remedy. In the case of *R.S. Raghunath v. State of Karnataka and Anr.* [(1992) 1 SCC 335], the Supreme Court enunciated this principle of interpretation and stated that the statute must be read in its entirety and in context with the other relevant provisions. The intention of the legislature behind enacting the Water Act is to prevent and control water pollution and restoring the wholesomeness of water for the benefit of the public at large and in the interest of environment. This legislative intent must be given due significance. *Dehors* such an approach, there is every likelihood that the object of the Act would be rendered futile or ineffective. Thus, while examining the provisions of Section 25(7) supra, due significance is to be provided to the legislative intent and the paramount purpose of the Act which is to prevent and control the pollution and not to provide deemed consents even where the applicant is a defaulter of law and an offender. Another aspect of 'deeming fiction' in law is that the conditions precedent to application of such deeming fiction must be strictly satisfied. In other words, the conditions stipulated in terms of Section 25(7) supra must be satisfied *stricto sensu* and then alone the applicant could claim the benefit accruing under such a provision. The onus lies upon the applicant to show that he has complied with the stipulated conditions without demur and variation.

31. As already noticed, the two conditions stipulated under Section 25(7) supra are (i) the application to the Board should be complete in all respects and (ii) the period of four months should have lapsed after making of such application to enable the applicant to claim such a benefit. In the present case, the applicants, admittedly, have not only established their operations but, in fact, have also started their respective textile units without informing the Board, much less obtaining the consent of the Board for establishment or operationalisation of their respective units.

This was, undoubtedly, a clear violation of Section 25 of the Water Act, punishable under Section 44 of the said Act besides rendering such persons liable for other penal action, as provided under the provisions of the Water Act. The applicants, thus, are obviously defaulters and offenders under the provisions of the Water Act on the one hand while on the other, are, in fact, causing serious pollution. Still another facet of these cases is that even when these applicants moved to the Board for obtaining the consent, their applications were not complete in terms of the prescribed form along with the complete analysis report, despite the fact that all of the units were operational at that time. It is on record before the Tribunal that the officers of the Board had even visited the respective units and found a number of deficiencies. It was also noticed that these units were causing serious pollution and were even discharging trade effluents in excess of the

prescribed parameters into the drain and the CETP of the Trust without its consent.

32. For instance, the unit of M/s Laxmi Suiting was inspected by the officers of the Board on 27<sup>th</sup> September, 2010 and 16<sup>th</sup> November, 2010 in the presence of the applicant. On both these inspections, certain deficiencies had been noticed and the unit in question was found to be a polluting industry. Vide letter dated 1<sup>st</sup> December, 2010, the Board had communicated to the applicant the shortfalls and deficiencies in the work being carried out by the unit. Similarly, in the case of other units also, the Board officers had conducted inspections and they found certain deficiencies, non-compliances and shortfalls and that they were polluting industries. To put it simply, the applicants did not submit applications complete in all respects to the Board, and they were found to be polluting industries, offending the provisions of the Water Act. In exercise of its powers under Section 33A of the Water Act, the Board had issued closure orders, acting on the 'precautionary' and the 'preventive' principles so that these industries would not cause any further pollution. In fact, the industry should not be permitted to discharge effluents which are violative of the prescribed parameters. Section 25(5) of the Water Act, by necessary implication and purposive interpretation forms an exception to the deeming fiction created under Section 25(7) supra. The cases which fall under

Section 25(5) cannot invoke the provisions of Section 25(7) as their operations shall be controlled entirely by the provisions of Section 25(5) of the Act. Section 25(5) takes within its ambit any industry, operation or process or any treatment and disposal system or any extension, in addition to a unit, which has been established without obtaining consent of the Board. This will also cover such cases where any steps for such establishment or even any new or altered outlet for the discharge of sewage have been brought into use, etc. The Board may serve a notice on the person who has established such industry, operation, process or treatment system, imposing such conditions as the Board might have imposed on an application for consent in respect of such establishment, outlet or such discharge. To put it simply, the provisions of Section 25(5) are applicable to a specified category of industries or units which have been established or operationalised without obtaining consent of the Board. These units would be governed by the conditions stated in its order of consent by the Board after issuance of notice to them. The consent, thus, would be such as if the one granted in terms of Section 25(1) to (7) of the Water Act. Section 25(5) precedes Section 25(7) supra. Thus, the cases which are covered under Section 25(5) cannot be controlled and taken advantage of the deeming fiction contemplated under Section 25(7) of the Water Act. Invocation of Section 25(5) can produce two different kinds of results – one, which can be granted consent in terms

of Section 25 itself and the other where such conditional consent is not granted and the Board, in exercise of its powers under Section 33A of the Water Act, directs closure of the unit. The order of closure would necessarily imply refusal of consent. In either of these events, the consequences would be rendering Section 25(7) of the Water Act uninvocative by such industries. The units must be compliant of the law before claiming the benefit. If they have moved no application whatsoever and commenced establishment or operation of their units, then they would lose the very initiation of the process which can entitle them to the deemed fiction benefit under Section 25(7) supra. The provisions of Section 25(7) are not intended to legitimise the illegal acts but are themselves exceptions to the rule of grant or refusal of consent. At this stage, it can also be appropriately noticed that even the consent granted under Section 25 of the Water Act is subject to review or subsequent refusal in terms of Section 27(2) of the Water Act. The Board, in exercise of its powers under this provision, can add or modify conditions or even refuse consent in its order, as it may deem fit, of course upon a notice to the party concerned. Once these provisions are read in conjunction, the scheme of the Act becomes quite apparent that the legislature never intended to give any benefit to a person who has not complied with the statutory conditions or is a pollutant or offender under the provisions of the Water



Act. The benefit of law accrues to one who complies with the law and not the one who offends the same.

33. A deeming provision creates a legal fiction. When a statute enacts that something shall be deemed to have been done, which in fact and in truth has not been done, the court is entitled and bound to ascertain for what purpose and between what persons the statutory fiction is to be resorted to. After ascertaining the purpose, full effect must be given to the statutory fiction and it should be carried out to its logical conclusion and to that end, it would be proper and even necessary to assume all those facts on which alone the fiction can operate. In other words, the facts and requirements of the fiction must be satisfied. It has, in fact, also been held by some courts that the word 'deemed' when used in a statute establishes a conclusive or rebuttal presumption, depending upon the context.

34. Another legal principle of construing the legal fiction is that the law cannot be extended beyond its purpose. The Supreme Court, in the case of *Bengal Immunity Co. Ltd. v. State of Bihar* (AIR 1955 SC 661) stated that the legal fictions are created only for some definite purpose. A legal fiction is to be limited to that purpose for which it was created and should not be extended beyond that legitimate field. This approach was reiterated by the Supreme Court of India in the case of *Union of India v. Sampat Raj*

*Dugar* (AIR 1992 SC 1417), wherein while dealing with Clause 5(3)(ii) of the Import (Control) Order, held that fiction created was for the proper implementation of the Import and Export (Control) Act, 1947 and to hold the licensee responsible for anything and everything that happens from the time of import till the goods are cleared through Customs and it was also held that the fiction cannot be employed to attribute ownership of imported goods to the importer in a case where he abandons them i.e. in a situation where the importer does not pay or receive the documents of title. Reference can also be made to the case of *Rajkumar Khurana v. State of NCT of Delhi* [(2009) 6 SCC 72].

35. Section 25(7) is intended to provide for the deemed fiction only where the law is complied with. The obvious reason for providing the deeming fiction under Section 25 of the Water Act is to ensure that the Board does not unduly withhold the application of an industry or a unit which has acted in accordance with the law and has moved the application for establishment/operation complete in all respects to the Board. The intention of the framers of law is to balance the relationship between the industry and the Board. It is not intended to give any undue or unlawful advantage to either of the two. The Board must not be able to frustrate the establishment of a project merely by delaying its decision on the application. It is also not intended to give any right to the

industry to start its operation without obtaining consent of the Board or even making an application for that purpose. On the principle aforesaid, it will not be permissible to stretch the provisions of Section 25 of the Water Act to give protection to the class of persons who are polluters and are even covered under the specified category contemplated under Section 25(5) supra.

36. In view of the above discussion, we are of the considered view that the applicants are not entitled to the benefit or advantage of the deeming fiction of law contemplated under Section 25(7) of the Water Act *inter alia* but specifically for the following reasons:

(i) The applicants did not submit applications, as contemplated under Section 25(2) of the Water Act, complete in all respects to the Board.

(ii) Indisputably and squarely, the applicants fall within the category of Section 25(5) of the Water Act, which provision is an exception to the very application of Section 25(7) of the Water Act and cannot be claimed as a matter of right.

(iii) Issuance of directions under Section 33A of the Water Act necessarily implies refusal of consent as contemplated under Section 25(4)(b) of the Water Act.

(iv) The applicants are non-compliant, polluting industries, offending the provisions of the Water Act.

These units have violated the law by discharging trade effluents in excess of the prescribed parameters. Their conduct, in fact and in law, is such that would disentitle them from claiming any advantage in terms of Section 25(7) of the Water Act as they have caused pollution for years together without consent of the Board.

37. Now, we may deal with the contentions (i) and (ii) together. The contentions are that the order of the Board is unfounded and arbitrary. Further, the order is also violative of the principles of natural justice. Since there is an apparent link between these contentions, they can usefully be dealt with together. According to the applicants, the impugned orders have been passed in violation of the principles of natural justice and without complying with the procedure prescribed under Rule 34 of the Water Rules. The Board can exercise its powers and issue directions in terms of Section 33A of the Water Act, subject to compliance with the procedure stated under Rule 34 of the said Rules.

38. Section 33A of the Water Act vests in the Board very wide powers of serious consequences. The provisions of Section 33A of the Water Act start with a non-obstante clause and is to have precedence over any other law in force. These powers are to be exercised subject to the provisions of the Water Act as well as the Water Rules. The provisions of Section 33A of the Water Act empower the Board to issue directions in writing to

any person, officer or authority. Such directions have to be issued in exercise of the powers and functions of the Board under the Water Act. The procedure for issuance of such directions is stated under Rule 34 of the Water Rules. The person, officer or authority to whom such directions are issued is duty-bound to comply with such directions. Varied directions could be issued by the Board for a variety of reasons. The variation of the directions issued by the Board could be for different purposes and could even be to the extent of directing closure, prohibition of regulation of the industry, operation or process. It could also relate to stoppage or regulation of supply of electricity or water or any other service to such a unit. Vesting the Board with wide powers under these provisions, is a clear indication of the intent of the legislature, and the object that is sought to be achieved in relation to the industries, which are causing pollution or which are a potent threat to the environment.

39. Rule 34 of the Water Rules provides a road-map of the steps which are required to be taken by the Board from the stage of issuance of directions, as comprehended by the Board, to the stage of their execution. It requires a direction to be made in writing and the service of the proposed direction to be made upon the person, officer or authority, and an opportunity being granted to file objections thereto and then passing of such final directions and its service upon such



person, officer or authority including the occupier. This exercise has to be undertaken by the Board in a time-bound programme in terms of Rule 34 of the Water Rules.

40. Rule 34 of the Water Rules in contradistinction to Section 33A of the Water Act, is a procedural provision to aid the substantive law contained in Section 33A. While Section 33A grants power to a Board to give directions, *inter alia*, in relation to closure, prohibition, regulation or the like, the said rule lays down the manner in which the said power is to be exercised.

41. A plain reading of the said rule makes it clear that its aim and object is, primarily, to bestow upon the “the person, officer or the authority to whom such direction is given” under Section 33A, the advantages of the principles of natural justice, which are also an essential concomitant under general jurisprudence as well as the law of equity, the absence of which would vitiate any proceeding, unless specifically excluded from their application.

42. While Rule 34(2) supra specifically lays down that the direction sought to be made must contain the nature of action and the time taken to carry out the same against the person, Rule 34(3) supra is custodian of the maxim *audi alteram partem*, a component of the principles of natural justice. This sub-rule gives to the person to whom such direction is sought to be issued, an opportunity of being heard, as well as that of

filing objection, if any, which are to be considered by the Board under sub-rule 5 of Rule 34, within 45 days of the receipt of such objections. The same rule under sub-rule 6 of Rule 34 makes an exception to this rule of *audi alteram partem*, however, only when substantiated by reasons, for which this maxim could not be put in application.

43. While on the one hand, sub-rule (3) contemplates a direction of the Board directly to the person against whom the direction is sought to be issued, on the other, sub-rule (4) envisages issuance of a direction through an authority, to the said person. However, in both the cases, the substantive requirement of law to adhere to the principles of natural justice is specifically provided for, i.e. irrespective of the fact whether the person is being issued a direction directly by the Board or through an authority, he shall be given time to file objections, as well as an opportunity of being heard, in consonance with the principles of natural justice, unless the case demands otherwise in which case, the Board shall be duty-bound to give reasons, in writing, for the same.

44. Recording of reasons is a principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. (*Secretary and Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity & Ors* [2010 (3) SCC 732].

It is a well settled norm that a disciplinary enquiry or a quasi-

judicial enquiry has to be conducted in accordance with the principles of natural justice. An enquiry report in a quasi-judicial enquiry must show the reasons for arriving at a particular conclusion. [*Anil Kumar v. Presiding Officer & Ors* {1985 (3) SCC 378}]. Therefore, reasons, as contemplated in sub-rule 5 are, again, an inherent part of the principles of natural justice and must be given whenever a decision is taken by an administrative body, like the Board, to substantiate the rationale behind reaching the same.

45. As already noticed, compliance with the various sub-rules of Rule 34 of the Water Rules is required to be made within the time schedule specified therein. It is also the obligation of the Board to consider such objections and thereupon, confirm, modify or even decide not to issue the proposed direction. But once such a direction is issued, its obedience is mandatory by all persons and authorities concerned.

46. The adherence to *audi alteram partem* by the Board is not free from exception. Rule 34(6) of the Water Rules makes an exception to the provisions of Rule 34(1) to 34(5) supra. However, this exception has three essential ingredients – one, that the Board is to be of the opinion that there is a likelihood of great injury to the environment; two, it would not be expedient to provide an opportunity to file objections against the proposed direction; and three, the Board should record

reasons in writing as to why the directions be issued without providing an opportunity to the person, officer or authority.

47. Natural justice means a fair process excluding arbitrariness and recording of reasons so as to show application of mind. This process, as indicated above, is provided under Rule 34(1) to (5) of the Water Rules. Normally, the Board is expected to comply with the requirements of the principles of natural justice unless the case is one that squarely falls within the exception clause contained in Rule 34(6) of the Water Rules, and only that too when the ingredients thereof are satisfied by the Board.

48. The principles of natural justice are to be construed flexibly and not rigidly. The purpose is to provide a fair opportunity to the party that is likely to get adversely affected while passing of such directions. We may make a reference to a recent judgment of the Tribunal in the case of *Dhunseri Petrochem and Tea Ltd. v. Union of India and Ors.* [2013(2) Part I NGT Reporter], extracts of which are reproduced below:

“11. It is not only undisputed but, in fact is fairly admitted on behalf of the Respondents No.1, 2, 3 and 4 that the applicant was not granted any opportunity of hearing before the impugned communications/orders were passed. The violation of principles of natural justice, thus, is conceded. The applicant had admittedly obtained all relevant clearances in relation to obtaining consent for establishment as well as for operation of the two processing CETPs and the 8MW coal captive power CETP. These consents are in force till the 31<sup>st</sup> May 2014. The applicant has been carrying on its business manufacturing activity for more than 10 years and according to the applicant no complaint had ever been



received either from authority or other relevant quarter. That being so, the short question that requires the consideration of this Tribunal is whether the applicant was entitled to grant of hearing, whether in the facts of the case, compliance to the principles of natural justice was mandatory before the impugned communication/orders were passed by the respective respondents. We have no hesitation in answering this question in the affirmative. The impugned communication and directions have not only ancillary civil consequences for the applicant but in fact his entire business which he has been carrying on for the last more than ten years has to be shut down in all respects. It is not a mere stopping of an industrial activity but is even going to affect the families of large number of workmen who are working in these industries. The impugned communications/orders are of such serious nature that compliance to the principle of *audi alteram partem* cannot be obviated. We may refer to a recent judgment of this Tribunal in the case of *M/s. Sesa Goa vs. State of Goa and Ors.*, Application No. 49 of 2012, pronounced on 11<sup>th</sup> April, 2013 where after noticing the various judgments of the Supreme Court in relation to adherence to the rule of *audi alteram partem*, the Tribunal held as under: -

“17. It must be noticed that the aim of rules of natural justice is to secure justice, or to put it negatively, to prevent miscarriage of justice. Despite the fact that such rules do not have any statutory character, their adherence is even more important for the compliance of the statutory rules. The violation of the principles of natural justice has the effect of vitiating the action, be it administrative or quasi-judicial, in so far as it affects the rights of a third party. Flexibility in the process of natural justice is an inbuilt feature of this doctrine. Absolute rigidity may not further the cause of justice and therefore adoption of flexibility is important for applying these principles.

18. A Court or a Tribunal has to examine whether the principles of natural justice have been violated or not as a primary consideration, whenever and wherever such an argument is raised. Test of prejudice is an additional aspect.



Normally, violation of principles of natural justice, like non-grant of hearing, would vitiate the action unless the theory of 'useless formality' is pressed into service and is shown to have a complete applicability to the facts of the case. We may notice that this theory, though has been accepted by the Courts, but is rarely applied.

19. In the case of *Canara Bank v. A.K. Awasthi* (2005) 6 SCC 321, the Supreme Court compared natural justice to common sense justice. It emphasized on the compliance with the principles of natural justice when a quasi-judicial body embarks upon determination of disputes between the parties or when an administrative action involving civil consequences is in issue. The Court held:

“9. The expressions “natural justice” and “legal justice” do not present a watertight classification. It is the substance of justice which is to be secured by both, and whenever legal justice fails to achieve this solemn purpose, natural justice is called in aid of legal justice. Natural justice relieves legal justice from unnecessary technicality, grammatical pedantry or logical prevarication. It supplies the omissions of a formulated law. As Lord Buckmaster said, no form or procedure should ever be permitted to exclude the presentation of a litigant's defence.

10. The adherence to principles of natural justice as recognised by all civilised States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as *audi alteram partem* rule. It says that no

one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way into the “Magna Carta”. The classic exposition of Sir Edward Coke of natural justice requires to “vocate, interrogate and adjudicate”. In the celebrated case of Cooper v. Wandsworth Board of Works the principle was thus stated: (ER p. 420)

“Even God himself did not pass sentence upon Adam before he was called upon to make his defence. ‘Adam’ (says God), ‘where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat?’ ” Since then the principle has been chiselled, honed and refined, enriching its content. Judicial treatment has added light and luminosity to the concept, like polishing of a diamond.

11. Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the

arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.

12. What is meant by the term “principles of natural justice” is not easy to determine. Lord Sumner (then Hamilton, L.J.) in *R. v. Local Govt. Board 3* (KB at p.199) described the phrase as sadly lacking in precision. In *General Council of Medical Education & Registration of U.K. v. Spackman* Lord Wright observed that it was not desirable to attempt “to force it into any Procrustean bed” and mentioned that one essential requirement was that the Tribunal should be impartial and have no personal interest in the controversy, and further that it should give “a full and fair opportunity” to every party of being heard.”

20. The above findings of the Court puts one matter beyond ambiguity, i.e., the affected party is entitled to full and fair opportunity, and such an opportunity, shall, both in fact and in substance, be granted to ensure that justice is not only done but also seems to have been done.

21. In the present case we are concerned with the application and the various facets of the maxim *audi alteram partem*. The Courts have consistently emphasized that this is a highly effective rule devised by the Courts to ensure that a statutory authority arrives at a just decision and it is calculated to act as a healthy check on the abuse or misuse of power.

22. The doctrine of *audi alteram partem* has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order. While referring to this principle in the case of Assistant Commissioner, Commercial Tax Department, works contract and leasing, Kota vs. Shukla & Bros (2010) 4 SCC 785, the Supreme Court of India stressed upon the need for recording reasons and for the authority to act fairly. The court held as under:

“11. The Supreme Court in S.N. Mukherjee v. Union of India while referring to the practice adopted and insistence placed by the courts in United States, emphasized the importance of recording of reasons for decisions by the administrative authorities and tribunals. It said “administrative process will best be vindicated by clarity in its exercise”. To enable the courts to exercise the power of review in consonance with settled principles, the authorities are advised of the considerations underlining the action under review. This Court with approval stated:

“11. ... ‘the orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained’.”

12. In exercise of the power of judicial review, the concept of reasoned orders/actions has been enforced equally by the foreign courts as by the courts in India. The administrative authority and tribunals are obliged to give reasons,



absence whereof could render the order liable to judicial chastisement. Thus, it will not be far from an absolute principle of law that the courts should record reasons for their conclusions to enable the appellate or higher courts to exercise their jurisdiction appropriately and in accordance with law. It is the reasoning alone, that can enable a higher or an appellate court to appreciate the controversy in issue in its correct perspective and to hold whether the reasoning recorded by the court whose order is impugned, is sustainable in law and whether it has adopted the correct legal approach. To sub serve the purpose of justice delivery system, therefore, it is essential that the courts should record reasons for their conclusions, whether disposing of the case at admission stage or after regular hearing.

13. At the cost of repetition, we may notice, that this Court has consistently taken the view that recording of reasons is an essential feature of dispensation of justice. A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds



before the higher court in the event of challenge to that judgment. Now, we may refer to certain judgments of this Court as well as of the High Courts which have taken this view.”

24. The recording of reasons by the administrative and quasi judicial authorities is a well-accepted norm and its compliance has stated to be mandatory. Of course, reasons recorded by such authorities may not be like judgments of courts, but they should precisely state the reasons for rejecting or accepting a claim which would reflect due application of mind. The Bombay High Court in the case of Pipe Arts India Pvt. Ltd v. Gangadhar Nathuji Golmare, 2008 (6) MLJ 280 held:

“8. The Supreme Court and different High Courts have taken the view that it is always desirable to record reasons in support of the Government actions whether administrative or quasi-judicial. Even if the statutory rules do not impose an obligation upon the authorities still it is expected of the authorities concerned to act fairly and in consonance with basic rule of law. These concepts would require that any order, particularly, the order which can be subject matter of judicial review, is reasoned one. Even in the case of Chabungbambohal Singh v. Union of India and Ors: 1995(1) SCALE 857, the Court held as under:

His assessment was, however, recorded as "very good" whereas qua the appellant it had been stated unfit. As the appellant was being superseded by one of his juniors, we do not think if it was enough on the part of the Selection Committee to have merely stated unfit, and then to recommend the name of one of

his juniors. No reason for unfitness, is reflected in the proceedings, as against what earlier Selection Committees had done to which reference has already been made.

9. The requirement of recording reasons is applicable with greater rigour to judicial proceedings. Judicial order determining the rights of the parties essentially should be an order supported by reasoning. The order must reflect what weighed with the Court in granting or declining the relief claimed by the applicants.

10. In the case of *Jawahar Lal Singh v. Naresh Singh and Ors*: 1987 CriLJ 698, accepting the plea that absence of examination of reasons by the High Court on the basis of which the trial Court discarded prosecution evidence and recorded the finding of an acquittal in favour of all the accused was not appropriate, the Supreme Court held that the order should record reasons. Recording of proper reasons would be essential, so that the Appellate Court would have advantage of considering the considered opinion of the High Court on the reasons which had weighed with the trial Court.

11. May be, while entertaining the interim applications, the orders are not expected to be like detailed judgments in final disposal of the matter, but they must contain some reasons which would provide adequate opportunity and ground to the aggrieved party to assail that order in appeal effectively.

12. In the case of State of Punjab and Ors. v. Surinder Kumar and Ors. : [1992] 194 ITR 434(SC) , while noticing the jurisdictional distinction between Article 142 and Article 226 of the Constitution of India, the Supreme Court stated that powers of the Supreme Court under Article 142 are much wider and the Supreme Court would pass orders to do complete justice. The Supreme Court further reiterated the principle with approval that the High Court has the jurisdiction to dismiss petitions or criminal revisions in limini or grant leave asked for by the petitioner but for adequate reasons which should be recorded in the order. The High Court may not pass cryptic order in relation to regularisation of service of the respondents in view of certain directions passed by the Supreme Court under Article 142 of the Constitution of India. Absence of reasoning did not find favour with the Supreme Court. The Supreme Court also stated the principle that powers of the High Court were circumscribed by limitations discussed and declared by judicial decision and it cannot transgress the limits on the basis of whims or subjective opinion varying from Judge to Judge.

13. In the case of Hindustan Times Ltd. v. Union of India and Ors. : [1998]1SCR4 , the Supreme Court while dealing with the cases under the Labour Laws and Employees' Provident Funds and Miscellaneous Provisions Act, 1952 observed that even when the petition under Article 226 is dismissed in limini, it is expected of the High Court to pass a speaking order, may be briefly.

14. Consistent with the view expressed by the Supreme Court in the afore-referred cases, in the case of State of U.P. v. Battan and Ors. (2001)10SCC607 , the Supreme Court held as under:

The High Court has not given any reasons for refusing to grant leave to file appeal against acquittal. The manner in which appeal against acquittal has been dealt with by the High Court leaves much to be desired. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order. The absence of reasons has rendered the High Court order not sustainable.

15. Similar view was also taken by the Supreme Court in the case of Raj Kishore Jha v. State of Bihar and Ors. JT 2003 (Supp.2) SC 354.

16. In a very recent judgment, the Supreme Court in the case of State of Orissa v. Dhaniram Luhar 2004CriLJ1385 while dealing with the criminal appeal, insisted that the reasons in support of the decision was a cardinal principle and the High Court should record its reasons while disposing of the matter. The Court held as under:

8. Even in respect of administrative orders Lord Denning, M.R. In Breen v. Amalgamated Engg. Union observed:

The giving of reasons is one of the fundamentals of good



administration." In Alexander Machinery (Dudley) Ltd. v. Crabtree it was observed: "Failure to give reasons amounts to denial of justice." "Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking-out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.



17. Following this very view, the Supreme Court in another very recent judgment delivered on February, 22, 2008, in the case of State of Rajasthan v. Rajendra Prasad Jain Criminal Appeal No. 360/2008 (Arising out of SLP (Cri.) No. 904/2007) stated that "reason is the heartbeat of every conclusion, and without the same it becomes lifeless."

18. Providing of reasons in orders is of essence in judicial proceedings. Every litigant who approaches the Court with a prayer is entitled to know the reasons for acceptance or rejection of such request. Either of the parties to the Us has a right of appeal and, therefore, it is essential for them to know the considered; opinion of the Court to make the remedy of appeal meaningful. It is the reasoning which ultimately culminates into final decision which may be subject to examination of the appellate or other higher Courts. It is not only desirable; but, in view of the consistent position of law, mandatory for the Court to pass orders while recording reasons in support thereof, however, brief they may be. Brevity in reasoning cannot be understood in legal parlance as absence of; reasons. While no reasoning in support of judicial orders is impermissible, the brief reasoning would suffice to meet the ends of justice at least at the interlocutory stages and would render the remedy of appeal purposeful and meaningful. It is a settled canon of legal jurisprudence that the Courts are vested with discretionary powers but such powers are to be exercised

judiciously, equitably and in consonance with the settled principles of law. Whether or not, such judicial discretion has been exercised in accordance with the accepted norms, can only be reflected by the reasons recorded in the order impugned before the higher Court. Often it is said that absence of reasoning may ipso facto indicate whimsical exercise of judicial discretion. Patricia Wald, Chief Justice of the D.C. Circuit Court of Appeals in the Article, Black robed Bureaucracy or Collegiality under Challenge, (42 MD.L. REV. 766, 782 (1983), observed as under:

My own guiding principle is that virtually every appellate decision requires some statement of reasons. The discipline of writing even a few sentences or paragraphs explaining the basis for the judgment insures a level of thought and scrutiny by the Court that a bare signal of affirmance, dismissal, or reversal does not.

19. The Court cannot lose sight of the fact that a losing litigant has a cause to plead and a right to challenge the order if it is adverse to him. Opinion of the Court alone can explain the cause which led to passing of the final order. Whether an argument was rejected validly or otherwise, reasoning of the order alone can show. To evaluate the submissions is obligation of the Court and to know the reasons for rejection of its contention is a legitimate expectation on the part of the litigant. Another facet of providing reasoning is to give it a value of precedent which can help in reduction of frivolous

litigation. Paul D. Carrington, Daniel J Meador and Maurice Rosenberg, Justice on Appeal 10 (West 1976), observed as under:

When reasons are announced and can be weighed, the public can have assurance that the correcting process is working. Announcing reasons can also provide public understanding of how the numerous decisions of the system are integrated. In a busy Court, the reasons are an essential demonstration that the Court did in fact fix its mind on the case at hand. An unreasoned decision has very little claim to acceptance by the defeated party, and is difficult or impossible to accept as an act reflecting systematic application of legal principles. Moreover, the necessity of stating reasons not infrequently changes the results by forcing the judges to come to grips with nettlesome facts or issues which their normal instincts would otherwise cause them to avoid.

20. The reasoning in the opinion of the Court, thus, can effectively be analysed or scrutinized by the Appellate Court. The reasons indicated by the Court could be accepted by the Appellate Court without presuming what weighed with the Court while coming to the impugned decision. The cause of expeditious and effective disposal would be furthered by such an approach. A right of appeal could be created by a special statute or under the provisions of the Code governing the procedure. In either of

them, absence of reasoning may have the effect of negating the purpose or right of appeal and, thus, may not achieve the ends of justice.

21. It will be useful to refer words of Justice Roslyn Atkinson, Supreme Court of Queensland, at AIJA Conference at Brisbane on September 13, 2002 in relation to Judgment Writing. Describing that some judgment could be complex, in distinction to routine judgments, where one requires deeper thoughts, and the other could be disposed of easily but in either cases, reasons they must have. While speaking about purpose of the judgment, he said,

The first matter to consider is the purpose of the judgment. To my mind there are four purposes for any judgment that is written:

- (1) to clarify your own thoughts;
- (2) to explain your decision to the parties;
- (3) to communicate the reasons for the decision to the public; and
- (4) to provide reasons for an appeal Court to consider.

22. Clarity of thought leads to proper reasoning and proper reasoning is the foundation of a just and fair decision. In *Alexander Machinery (Dudley) Ltd. v. Crabtree* 1974 ICR 120, the Court went to the extent of observing that "Failure to give reasons amounts to denial of justice". Reasons are really linchpin to administration of justice. They are link between the mind of the decision taker and the controversy in question. To justify our conclusion, reasons are essential. Absence of reasoning would render the judicial



order liable to interference by the higher Court. Reasons is the soul of the decision and its absence would render the order open to judicial chastism.”

49. Another Constitution Bench of the Supreme Court, in the case of S.N. Mukherjee vs. Union of India (1990) 4 SCC 594, after referring to the English law and the judgments of the Supreme Court, stated that the failure to give reasons amounts to denial of justice. The Court held that even if it is not the requirement of rules, but at least, the record should disclose reasons. The Court noticed that omnipresence and omniscience of the principles of natural justice act as deterrence to arrive at arbitrary decisions in flagrant infraction of fair play. Further, the Court held that the importance of the doctrine of natural justice is evident from the fact that with the development of law it has been treated as an ingredient of Article 14 of the Constitution of India. ‘Natural Justice’ means a fair process. A fair process essentially must exclude arbitrariness and exclusion of arbitrariness would ensure equality and equal treatment before law.

50. The above-stated principles clearly show that adherence to the principles of natural justice is mandatory unless application of such principles is excluded by specific language. Rule 34 of the Water Rules makes application of the principles of natural justice mandatory for invocation of powers conferred under Section 33A of the Water Act. Rule 34 is not



absolute in its application and it carves out an exception under the proviso to sub-rule (4) of Rule 34. The violation of the principles of natural justice, more so where it is specifically provided under the statute, would result in vitiation of the impugned actions. Prejudice is one of the aspects which the Tribunal would consider while dealing with the plea of violation of natural justice.

51. It is also contended, on behalf of the Board, that if no consent has been granted by the Board to a unit to operate or if granted but withdrawn and the unit is operating without its consent and even if it has moved an application for obtaining a fresh consent of the Board, then it cannot be heard to complain that the procedure prescribed under Rule 34 of the Water Rules has been violated while passing any direction under Section 33A of the Water Act. There appears to be some substance in this contention. The provisions of Section 33A of the Water Act are to operate despite anything contained in any other law but subject to the provisions of the Act.

52. It is not only the requirement of the powers and functions of the Board under the Water Act but also its statutory and the Constitutional obligations to ensure that pollution is controlled as well as prevented. They must ensure that the industries which are unauthorisedly and illegally existing and causing pollution, must be stopped in the interest of the environment and the issuance of such direction for

closure of the unit would squarely fall within the ambit of Section 33A of the Water Act.

53. The directions contemplated under this Section are to be issued by the Board in exercise of its powers and performance of its functions under the Water Act. Under both these conditions, the emphasis is upon the provisions of the Water Act. Section 25 of the Act puts a complete prohibition on any person to establish or operate any unit, treatment or disposal system without the previous consent of the Board. No person has the right to carry on any industrial or business activity without first obtaining the consent of the Board. The consent of the Board is a condition precedent and not subsequent to operation of the industry unless in the case of those which are specifically saved under the proviso to Section 25(1) of the Water Act, that too for a period of three months from the date of commencement of the Act i.e. from 23<sup>rd</sup> March, 1974. The industry which commences its operations and causes pollution for years together, cannot be heard to complain that the provisions of Rule 34 of the Water Rules were not complied with *stricto sensu* before passing a direction under Section 33A of the Water Act. As already noticed, we still find that there is substantial compliance to the spirit of Rule 34 of the Water Rules inasmuch as some of the units were inspected, some were even issued show cause notices and the directions for

closure had been passed in terms of the provisions under Section 33A supra.

54. Where the Board proposes to issue any direction for stoppage or regulation of supply of electricity or water or any other service to the industry, it is required to endorse to the occupier of industry, operation or process, and objections, if any, filed by the occupier, with an officer designated, shall be dealt with in accordance with the procedure prescribed.

55. At the relevant time, when the impugned directions were issued, they suffered from the defect of non-compliance and violation of the principle of *audi alteram partem*, as specifically built in Rule 34 of the Water Rules. The directions issued by the Board under Section 33A of the Act were never given effect to. They remained unimplemented. When the applicants approached the High Court, the effect of these directions was stayed. At that time, all the applicants were running their units and they were not closed in furtherance to the impugned directions. In that sense, the applicants have not suffered any prejudice.

56. Certainly, the applicants, while taking advantage of such non-compliance, cannot be permitted to continue to pollute the environment indiscriminately. They are expected to carry on their industrial and commercial activities subject to the law in force. They are required to discharge the trade effluents strictly in accordance with the specified parameters.

Admittedly, all these units had started their operations without obtaining the consent of the Board, which was the statutory obligation of the applicants. The unit owners cannot be permitted to take advantage of their own wrong and violation of their statutory obligations to comply with the provisions of Section 25 of the Water Act.

57. In any case, their grievance of not having been provided with an opportunity of being heard by the Board loses its significance now because we have heard every applicant at length. Upon hearing them, it becomes evident that all these applicants had started their operations without obtaining consent of the Board and were polluting the environment; some of them did not even apply for the consent and their operations are environmentally prejudicial. They did not have the consent even from the Trust for discharging their effluents into the CETP. Post-action is not uncommon in law, particularly when non-compliance with the principles of natural justice, has not caused any prejudice to the affected party. Having heard the applicants at length and perused the records, we are of the considered view that even as of today, no prejudice has been caused to the applicants, much less an irretrievable injury or prejudice.

58. Keeping in view the principle of sustainable development, the peculiar facts and circumstances of the case and the time for which these industries have been in operation, we do not

propose to direct their closure forthwith but would issue appropriate directions to enable them to operate while ensuring that there is no pollution. It would be necessary for us to examine the effect and impact of the impugned directions with reference to the violation of the principles of natural justice.

59. In the present case, some of the applicants have been served with a notice before passing of the directions under Section 33A of the Water Act.

60. In the case of O.A. No.367 of 2013, the notice to show cause as to why a direction for closure be not issued, was served by the Board on 27<sup>th</sup> September, 2010. The order directing closure of the unit under Section 33A of the Water Act was made on 27<sup>th</sup> August, 2012. The applicant had made an application for obtaining consent of the Board in the meanwhile which was also declined and the consent to operate was refused vide order dated 13<sup>th</sup> August, 2012. In other words, this unit was given a reasonable opportunity before the direction under Section 33A of the Water Act was issued. This unit was even inspected by a team of the officers of the Board on 27<sup>th</sup> September, 2011 and was found to be a polluting industry, which ultimately led to refusal of the consent. Further, this unit claims that it had established its own pollution treatment CETP as well as reverse osmosis system and is no longer a polluting industry. It is the claim of the



unit that after installation of the said anti-pollution devices, it had applied for obtaining the consent of the Board, which application is pending and has not been finally disposed of by the Board. Still, in some other cases, notices have been issued to the applicants before passing of the direction for closure under Section 33A of the Water Act. Indisputably, there are cases where the Board has issued directions under Section 33A of the Water Act without strictly complying with the procedure prescribed under Rule 34 of the Water Rules.

61. In those cases, there is violation of the principles of natural justice as well as the prescribed procedure. To that extent, the orders issued against the applicants would be liable to be set aside. But this aspect need not be deliberated upon by us at any greater length for the reason that the High Court, vide its order dated 9<sup>th</sup> September, 2010, had passed an interim stay of the orders passed by the Board under Section 33A of the Water Act. In other words, all these units have been carrying on their activities under the protection of the order of the Court. The Board had filed an application under Article 226 of the Constitution of India, praying for vacation of the stay order, which remained pending and has been listed before the Tribunal along with these applications.

62. Thus, the impugned orders would, in fact, be liable to be set aside for want of compliance with the mandatory principles of natural justice, as contemplated under Rule 34 of the Water

Rules wherever a reasonable opportunity has not been granted including the cases where such opportunity has been granted and show cause notices were served upon the applicants and still there has been some non-compliance with other procedural aspects. Even if the orders passed by the Board under Section 33A of the Act are set aside, still the consequences as of today would remain unchanged, as the applicants have no right to pollute the environment indiscriminately to the disadvantage of the public at large. Its proper regulation in accordance with law thus becomes the most significant aspect of these cases, which we shall shortly deal with.

63. Commonly raised by the applicants in most of these applications is to the order passed by the Trust declining membership/permission to the applicants to discharge their trade effluents into the drain of the Trust, leading to its CETP in that industrial area. The challenge is that the order is entirely arbitrary and without any proper reasons. The impugned orders of the Trust are somewhat similarly worded.

It is stated that:

“Your discharge quantity of effluent shown in the application is not justified therefore membership is not granted.”

64. According to the applicants, this order, besides being vague, is arbitrary and states no reasons. The reason stated in the impugned order does not show that the authorities have

applied their mind and passed the order in accordance with law. Further, it is contended that a large number of industries have been shut in the meanwhile. The calculations made by the Trust are not proper and, in fact, are contrary to the contents of their own website and the information received by the applicants through the process of RTI Act from the Trust itself. The CETP is functioning much below its optimum capacity, which is 20 MLD, as afore-noticed. On the one hand, the Trust is declining membership/consent to discharge the trade effluents of the applicants, while on the other, it has increased the capacity of the existing CETP by three folds. The submission on behalf of the Trust, on the contrary, is that the order might not have been worded rightly but what the Trust intended to inform the applicants was that their applications did not give true disclosure of the effluents that they were going to discharge into the drain and the same was misleading. The permission was declined not on the basis of the capacity of the CETP primarily, but for the misleading statements made by the applicants. However, it was also contended that the Trust would be willing and ready to do the needful to provide membership/permission to the units to discharge their trade effluents into the drain of the CETP once the pipeline is completed and with the aid of the other respondents, the capacity of the existing CETP is increased or an additional CETP is established.

65. To demonstrate arbitrariness in the action of the respondents in different cases that form part of the present bunch, it is stated on behalf of the applicants that they had written to the Board, that for the existing 12 tables, consent had been granted by the Trust. However, 4 tables out of the said 12 were purchased by the applicants who then applied for the consent. However, the consent for such 12 tables was declined for running their textile industries.

66. To eliminate or repel the ground of arbitrariness from an administrative order, it is necessary that it should be shown that the order in question was the result of a fair play. Fair play in action requires that the procedure adopted must be just and reasonable and that the power has not been exercised other than the ones contemplated under law. The other cases of arbitrariness are where a particular mode is prescribed for doing an act and there is no impediment in adopting the procedure, the deviation to act in a different manner which does not disclose any discernible reasonable principle, shall be labeled as arbitrary. It has also been held by the courts that while the discretion to change the policy in exercise of the executive power, when not trammelled by any statute or rule is wide enough, what is imperative and implicit in terms of Article 14 is that a change in policy must be made fairly and should not give an impression that it was so done arbitrarily

or by any ulterior criteria. (Ref. *Union of India & Anr. v. International Trading Company & Anr.* [(2003) 5 SCC 437].

67. During the course of arguments, it was stated on behalf of the Trust that the CETP was not working to its optimum capacity. This is a matter of serious concern. The inefficient working of the CETP, which has the capacity of 20 MLD and there being so much of pressure for discharge of trade effluents leading to the CETP, would necessarily require the Trust and even for the State Government to ensure that the CETP works to its optimum capacity and not by 5 MLD short. The CETP has the capacity to deal with more trade effluents than what it is presently treating. As of now, 50% of the trade effluents are being put into the river untreated. This is a matter of serious concern for all the authorities and the State Government. This is leading to polluting the river continuously and indiscriminately.

68. If the forms submitted by the applicants were found to be not providing correct information or misleading information, the order should have been passed in a more specific manner. From the affidavits filed before the Tribunal as to what the impugned orders passed by the Trust really mean, it is difficult for the Tribunal to hold that these orders are arbitrary or are without any substance.

69. It is a matter of some satisfaction that the Trust is prepared to take corrective and remedial measures on the one



hand and expansion of its plant to ensure prevention and control of pollution by the industries on the other. It appears that the impugned orders were passed by the Trust without proper application of mind and objectivity. Thus, it may not be possible to sustain these orders but at the same time, as the Trust has agreed to take corrective and proper steps, we do not consider it necessary to leave the matter at that stage in the interest of the environment and would pass specific directions in this behalf.

#### INDUSTRIES WHICH ARE OPERATING OUTSIDE THE INDUSTRIAL AREA

70. It may also be noticed that in Original Applications No. 400(T<sub>HC</sub>)/2013, and 405(T<sub>HC</sub>)/2013, it has been alleged that the textile industries are working outside the industrial area and an order for closure of these industries has been passed by the Board in exercise of its powers under Section 33A of the Water Act. The applicants have also applied to the competent authority for conversion of user of the land from 'agricultural' to 'industrial'. This issue for conversion is stated to be pending before the competent authority. Similarly, there are other cases where the industry is being run adjacent to the industrial area established by RIICO and the Board has issued orders for disconnection of electricity to these industrial units in exercise of its powers under Section 33A of the Water Act. These industries have also applied for conversion of land use from agricultural to industrial or residential to industrial, as

the case may be. The applications are stated to be pending before the authorities concerned. The reason stated, on behalf of the respondents, for not dealing with the applications for conversion effectively is said to be the interim order of the High Court in the case of *Gulab Kothari v. State of Rajasthan* (WP No.1554 of 2004 in the High Court of Rajasthan) whereby the High Court has restrained the authority from converting the user of the land. In that petition, the High Court was concerned that 151 changes had been sanctioned in the Master Plan under Section 25(1), resulting in 25 changes every month. The Court also took note of the fact that changes were also being made in the ecological zone and periphery belt including green belt. Thus, the Court directed the authorities not to effect any change without prior permission of the Court in the ecological zone and periphery belt area including green belt.

RIGHT TO WHOLESOME AND DECENT ENVIRONMENT AND OBLIGATIONS OF THE GOVERNMENT AND OTHER STAKEHOLDERS:

71. While examining the rights and obligations of the various stakeholders, the necessity for due performance of such obligations is one of the most important aspects of environmental jurisprudence. At the very threshold of the discussion on the subject, we may usefully refer to the judgments of this Tribunal in this regard, viz. *Application No.237(T<sub>HC</sub>)/2013* (Court on its own Motion v. State of

Himachal Pradesh & Ors.), *Application No.238(THC)/2013* (Durga Dutt & Ors. v. State of Himachal Pradesh & Ors.) and *Application No.239(THC)/2013* (Sher Singh v. State of Himachal Pradesh & Ors.), (All India NGT Reporter 2014(1) Part 3), known as the Rohtang Pass case. The extracts of this judgment are reproduced below:

“11. The citizens of the country have a fundamental right to a wholesome, clean and decent environment. The Constitution of India, in terms of Article 48A, mandates that the State is under a Constitutional obligation to protect and improve the environment and to safeguard the forest and wild life in the country. By 42<sup>nd</sup> Amendment to the Constitution, the Parliament, with an object of sensitizing the citizens of their duty, incorporated Article 51A in the Constitution, inter alia, requiring a citizen to protect and improve the natural environment including the forests, lakes, rivers and wild life and to have a compassion for living creatures. The legislative intent and spirit under Articles 48A and 51A(g) of the Constitution find their place in the definition of ‘environment’ under the Environment (Protection) Act, 1986 (for short the ‘Act of 1986’). The legislature enacted various laws like the Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974 and the Wildlife (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the Indian Forest Act, 1927 and the Biological Diversity Act, 2002 and other legislations with the primary object of giving wide dimensions to the laws relating to protection and improvement of environment. It is true that Part III of the Constitution relating to Fundamental Rights does not specifically devote any Article to the Environment or protection thereof *per se*. However, with the development of law and pronouncement of judgments by the Supreme Court of India, Article 21 of the Constitution has been expanded to take within its ambit the right to a clean and decent environment.

12. The risk of potential harm to the environment and human health resulting from development should be considered by somewhat tilting the balance in favour of the environment and in the larger public interest. According to “a reasonable person’s test”, life, public health and ecology have priority over unemployment and loss of revenue. Development and protection of

environment are not enemies. Right to a clean and decent environment has been held to be a fundamental right, coupled with an obligation on the part of the State and the citizens.

13. The legal history of our country shows that Supreme Court entered into one of its most creative periods during 1980 onwards. It specifically expanded the fundamental right enshrined in Part III of the Constitution. In the process, the boundaries of fundamental right to life and personal liberty guaranteed under Article 21 were expanded to include environmental protection. The Supreme Court strengthened Article 21 in two ways. First it required laws affecting personal liberty to also pass the tests of Article 14 and Article 19 of the Constitution, thereby ensuring that the procedure depriving a person of his or her personal liberty be reasonable, fair and just. Second, the court recognized several unarticulated liberties that were implied by Article 21. It is by this second method that the Supreme Court interpreted the right to life and personal liberty to include the right to a wholesome environment. (*Environmental Law and Policy in India* 2<sup>nd</sup> Edition, by Shyam Divan & Armin Rosencranz, Oxford University Press). This principle was initially explained by the Supreme Court in *Rural Litigation and Entitlement Kendra, Dehradun v. State of Uttar Pradesh* (AIR 1988 SC 2187). Even at the stage of interim order, the Supreme Court articulated the fundamental right to a healthful environment. In *Virender Gaur v. State of Haryana* [1995 (2) SCC 577], explaining upon this concept, the Supreme Court observed as under:

“Article 21 protects the right to life as a fundamental right. Enjoyment of life... including [the right to live] with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation, without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Environmental, ecological, air, water pollution, etc. should be regarded as amounting to violation of Article 21. Therefore, hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a human and healthy environment. ... [T]here is a constitutional imperative on the State Government and the municipalities, not



only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve both the man-made and the natural environment.”

14. The Supreme Court then took the view that the factors governing the quality of life have been included in the expression “life” contained in Article 21 by reason of creative interpretation of the said provision by the Court. It said that Article 21 does not only refer to the necessity to comply with procedural requirements, but also substantive rights of a citizen. It aims at preventive measures as well as payment of compensation in case human rights of a citizen are violated. The provisions of law were to be susceptible or vulnerable to challenge even on the ground of unreasonableness. To examine the legislative impact of environmental laws, it would be necessary to ascertain the object which the legislature seeks to achieve and the intent of the legislature. Where the statute *ex facie* points out degradation of the environment and change of user envisaged by the Constitution, e.g. existing open space to be used for commercial purposes, it may be necessary to invoke the ‘precautionary principle’ and ensure protection of environment. (*Environmental and Pollution Laws in India*, 2<sup>nd</sup> Edition, 2010 by Justice T.S. Doabia, Volume I, LexisNexis Butterworths Wadhwa Nagpur).

15. The Courts have consistently taken the view that right to life includes the right to a decent environment. The right to a clean environment is a guaranteed fundamental right. The Courts could even impose exemplary damages against the polluter. Proper and healthy environment enables people to enjoy a quality of life which is the essence of the right guaranteed under Article 21. The right to have congenial environment for human existence is the right to life. The State has a duty in that behalf and to shed its extravagant unbridled sovereign power and to forge in its policy to maintain ecological balance and hygienic environment. Though Government has power to give directions, that power should be used only to effectuate and further the goals of the approved scheme, zonal plans, etc. If without degrading the environment or minimizing adverse effects thereupon by applying stringent safeguards, it is not possible to carry on development activity applying the principle of sustainable development, in that eventuality, development has to go on because one cannot lose sight of the need for development of industries, irrigation resources, power projects, etc. including the need to improve the employment opportunities and the



generation of revenue. So a balance has to be struck. (*Durga Das Basu's "Shorter Constitution of India"*, 14<sup>th</sup> edition, LexisNexis Butterworths Wadhwa Nagpur)."

We may also refer to another judgment of the Tribunal in the case of *Kehar Singh v. State of Haryana* [All India NGT Reporter 2013 (1) Part 7] where, after referring to various judgments of the Supreme Court of India, the Tribunal held as under:

"27. The word 'environment' is an expression of broad spectrum which inculcates in its sweep both hygienic atmosphere and ecological balance. The right to life with human dignity encompasses within its ambit the preservation of environment, ecological balance free from air and water pollution. It also includes maintaining proper sanitation without which it may not be possible to enjoy life. The conduct or actions, which would cause environmental pollution and disturb the ecological balance should be regarded as violation of Article 21 of the Constitution of India. Therefore, promoting environmental protection implies maintenance of environment as a whole comprising the man-made and the natural environment. It is, therefore, not only the duty of the State but also the duty of every citizen to maintain hygienic environment. Thus, there is a constitutional imperative on the State Governments and the municipalities to take adequate measures to promote, protect and improve both the man-made and the natural environment (Refer: *Virender Gaur vs. State of Haryana* (1995) 2 SCC 577)."

"32. While dealing with a social welfare legislation, the provisions and the words therein are to be given a liberal and expanded meaning. Of course, liberal construction does not mean that the words shall be forced out of their natural meaning but they should receive a fair and reasonable interpretation so as to attain the object for which the instrument is designed and the purpose for which it is applied. Both the object and purpose in relation to its application are thus, relevant considerations for interpretation. The Courts have also permitted departure from the rule of literal construction so as to avoid the statute becoming meaningless or futile. In the case of *Surjit Singh v. Union of India* (1991) 2 SCC

87 and *Sarajul Sunni Board v. Union of India* AIR 1959 SC 198, the Supreme Court has also held that it is not allowable to read words in a statute which are not there, but where the alternative allows, either by supplying words which appear to have been accidentally omitted or by adopting a construction which deprives certain existing words of all meaning, it is permissible to supply the words. It is also a settled canon that in case of a social or beneficial legislation, the Courts or Tribunals are to adopt a liberal or purposive construction as opposed to the rule of literal construction.”

72. The Constitutional and statutory obligations of the stakeholders including the public at large have been clearly mandated where Article 51A(g) of the Constitution places upon every citizen an obligation to protect and improve the natural environment, including forests, lakes, rivers and wild life and to have compassion for the living creatures. Under its Directive Principles, Article 48-A require the State to endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. On the clear understanding of these Constitutional and statutory provisions, it cannot be doubted that every industry, every individual and particularly the State and its instrumentalities are expected to maintain and endeavour for a cleaner, wholesome and decent environment. ‘Environment’ is a term of wide connotation and takes in its ambit everything relating to nature. The definition of environment in the Environmental (Protection) Act of 1986 has been very widely defined and substantiates such approach.

73. In the present case, applicant-industries are causing serious pollution in the stream and/or ground water.

Undisputedly, textile industry is a serious polluter. These industrial units do not have their own treatment plants they are discharging their effluents in the stream and or the ground thus, polluting both. The trade effluent discharged by industries in and around the industrial area goes into the river as untreated. It has come on record that nearly 50% of the trade effluent and waste generated by these industries goes untreated into the river.

74. Textile industries transform fibers into yarn and yarn into fabrics or related products. In processing of textiles, the industry uses a number of dyes chemicals, auxiliary chemicals and sizing materials. As a result, contaminated waste water is generated which can cause environmental problems unless treated and disposed of adequately. Rajasthan is also famous for printing & dyeing of low cost, low weight fabric. Jodhpur, Pali, Balotra, Jasol and Bituja are the major clusters of small scale industries engaged in printing and dyeing of low cost fabric.

75. The major operations performed in a typical textile processing industry are desizing, scouring, mercerizing, bleaching, neutralizing, dyeing, printing and finishing. Textile industries generate all three kinds of waste i.e liquid effluents, air emissions and solid wastes. However, liquid effluents are of utmost concern because of their high volume and pollution potential. Quantity and nature of waste generated depend on

the fabric being processed, chemicals being used, technology being employed, operating practices etc. The important pollutants present in a typical textile waste effluent are colour, bio-chemical oxygen demand (BOD), chemical oxygen demand (COD), toxic heavy metals, residual chlorine, dissolved solids and non-biodegradable organics termed as refractory materials.

76. The textile units may have utilities such as raw water treatment system, cooling towers, laboratory, workshop(s), fuel storage facilities, residential colony, administrative block, canteen etc. which generate utility waste water and domestic waste water.

77. Main sources of air pollution are boilers(s), thermo pack and diesel generator(s) which generate gaseous pollutants such as suspended particulate matter (SPM), sulphur di oxide gas, oxide of nitrogen gas etc. Textile industry is also a major source of hazardous waste generation.

78. The sources of hazardous waste generation are effluent treatment plant, sludge, used oil, empty containers of dyes and other chemicals etc.

79. From the factual matrix of the case and the records before the Tribunal, the Textile Industries which are operating in Jodhpur and particularly the applicants before the Tribunal, can be categorized as follows:



- A. Operating in industrial areas (conforming area) and discharging the waste water into the common drain of RIICO carrying waste water to the Common Effluent Treatment Plant operated by the Trust. They are members of the Trust and consent granted by Board.
- B. Industries located in the same conforming area, discharge waste water into drain, but not members of the Trust nor have consent of Board.
- C. Industries located within the boundary areas of defined industrial area and discharging their waste water into the drain but not members of the Trust nor have consent of the Board.
- D. Industries spread over agricultural land, some have their own ETP and others do not have, discharge treated/untreated waste water on land. No consent from the Board. Some have even not applied for consent.
- E. It may be noticed that all the industries are operating by an Interim Order passed against the closure order issued by the Board under Section 33A to disconnect electricity.
1. Now, we may also notice some technical details and performance of the CEPT managed by the Trust and its effect.
  2. As the CETP is around 10 years old, the capacity is claimed to be reduced to 80%. Thus the present capacity has been reduced to 12.5 MLD for alkaline waste water and 4 for acidic wastewater.



3. The CETP includes screen chamber, oil & grease trap, equalization and coagulation in primary treatment systems and activated sludge treatment followed by clarifier in secondary treatment system. Although COD/BOD reductions are achieved through this conventional treatment system, objectionable colour, high TDS levels of effluents remain and effluents are not fit to be discharged to surface water or on land. Hence, tertiary treatment systems are becoming essential for achieving quality fit for its reuse. Hence, advanced treatment is essential.

4. As per the admission of the Trust, out of some 30 MLD waste water coming through the common drain, almost 50% is going without treatment. Larger volume than the treatment capacity in the drain is due to:

- (i) Increase in number of member-industries and/or increase in volume of waste water from the member-industries.
- (ii) Discharge by other industries who are not members of Trust.

5. Only 15 MLD of acidic waste comes through conduits pipes and treated in the CETP.

80. The above detailed data and other details clearly show the extent and area of water pollution resulting from the working of these industrial units without obtaining the

consent of the Board. The CETP of the Trust is performing much below its optimum capacity. This reflects malfunctioning of the CETP. There is a dire need for providing and/or expanding the industrial area to accommodate a large number of industries in existence as well as the ones which are likely to come up in the near future and, thus, will cause further environmental pollution. During the course of inspection, it has come on record that nearly 37.2 MLD is the trade and other effluent-discharge into the drain, leading to the CETP. The CETP is incapable of treating this load of trade effluent even if it was operating at its optimum capacity, which is stated to be 20 MLD. As the situation exists presently, pollution is inevitable. This current extent of pollution will increase with the passage of time and would become an unsolvable issue by the authorities concerned including the State Government. Neither the State Government of Rajasthan nor the RIICO can sit back and see the level of water pollution increasing day by day. However, the ground reality is that there has been planning alone without any action for years now. Thus, the authorities concerned have failed in preventing and controlling the pollution. With the passage of time, the pollution level has increased manifold. It is undisputed that even the underground water in these years has become red and unfit for human consumption. The availability of water is scarce. Whatever water is available, needs to be protected from pollution, whether in streams or

ground water. Unless all the stakeholders i.e. the Government, the Industrial Corporation (RIICO), the Trust, the industrial units and even the public at large work in tandem and co-operate with one another in order to achieve the object of pollution-free environment in this industrial area and the surrounding areas, it will never be an achievable object.

81. At this stage, we may appropriately notice a fact that has come on record that lastly, the industrial area that was declared or established by the Government was in the year 1984 whereafter there has been no material expansion or development of any industrial area. The CETP of the Trust is located on 9 acres of land. It has 212 members from the textile industry who are discharging 11.851 MLD effluents while the steel industries 3.15 MLD of effluents. This shows that there is ample scope for expansion of the CETP as well as establishment of a new CETP. The Trust needs to upgrade its CETP, the management of which is vested in the Trust itself though the CETP belongs to RIICO, who is the owner of the industrial estate. Thus, it is important that all these bodies including the State Government take planned actions and within a specified time limit to ensure control of the aggressively increasing trend of the pollution.

82. It has also come on record and was admitted during the course of the hearing that the Trust has already started laying down a separate pipeline for the purpose of collecting the

trade effluents discharged by its members. This pipeline is expected to be completed positively by April, 2014. Upon completion of this pipeline, the Trust would be able to collect and treat a higher quantity of trade effluents. Some of the members of the Trust are not just violating the prescribed parameters while discharging their trade effluents but are discharging the effluents three times in excess of the limit prescribed for them. This is due to the poor management and failure of the Trust and the RIICO to provide appropriate checks and balances for control of pollution.

83. A concerted effort by all the stakeholders has to be taken in order to ensure effective control and prevention of pollution while permitting development without irretrievably damaging the environment. The principle of sustainable development and the precautionary principle have to be applied by the Tribunal to the facts and circumstances of the present case. The Tribunal has to adopt an approach which will resolve the serious problem of water and environmental pollution caused by these industries, which has been persisting now for years in this industrial estate. Each stakeholder needs to act in a specific direction and provide financial and other aid so as to ensure that there is no adverse effect on the common objective of a pollution-free environment in the areas in question.

84. In the light of the above, we hereby issue the following directions to the respective stakeholders involved in the present case:

**DIRECTIONS:**

**Directions to RIICO, State Government and State Pollution Control Board**

- (i) In line with the order dated 9<sup>th</sup> December, 2010 passed by the High Court of Judicature for Rajasthan at Jodhpur, we hereby direct the State Government to identify and establish a separate industrial area and also to consider expansion of the existing industrial area at Sangaria Industrial Estate thereby shifting the industries existing around the industrial area as of today to the newly established or expanded, demarcated industrial area.
- (ii) The above authorities should ensure that the industries operating in non-conforming areas are gradually shifted to the conforming areas upon establishment of the new industrial estate and/or to the existing industrial estate upon its expansion.
- (iii) These authorities shall ensure that the Trust operates its CETP to the optimum capacity of 20 MLD and there is no malfunctioning of the said CETP. They shall also ensure establishment of an additional CETP either near the already existing CETP or at any other place



as the authorities concerned may define; positively ensuring that no untreated trade effluent or waste is discharged into the stream/river directly. The RIICO, Trust and RSPCB together should formulate a time targeted action plan for complete wastewater collection, treatment and reuse within one month from the date of this order to achieve zero discharge. This action plan should be implemented as per the schedule. The implementation should be monitored by the Committee constituted under this order to ensure its timely implementation. The Board may give consent to the Trust to operate the CETP to its optimum capacity, provided that collection and disposal of trade-effluent is in conformity with the prescribed standards.

- (iv) The State Board shall monitor the quantum of waste water generated periodically for which consent has been granted or will be granted to the industries which are connected to the CETP.
- (v) The State Board shall conduct inspection of the CETP of the Trust as well as the industrial units in and around the industrial estate at regular intervals and ensure that they are discharging trade effluents in accordance with the specified limits and prescribed standards.

- (vi) The State Board shall also monitor the functioning of captive ETP of those industries which are operating outside the conforming areas after grant of consent.
- (vii) If any industry/unit – whether a member of the Trust or otherwise – fails to make an application for consent within three weeks from the date of this order or if such application is submitted to the Board and the consent applied for is declined/refused, such industry/unit shall be closed until it complies with the conditions/requirements stated by the Board.
- (viii) All the industrial units operating in and around the industrial estate and even those operating in the non-conforming areas without consent of the Board shall be liable to pay a sum of Rs.5.00 lakhs each to the State Government/Board for causing pollution during all these years for their having failed to take appropriate measures and establish anti-pollution devices, as required under the law. This shall be a one-time payment on the basis of the ‘polluter pays’ principle. The amount so collected from all the units shall be utilised exclusively for upgradation/expansion of the existing CETP and for establishment and development of a new industrial estate and CETP to be established in future. The remaining amount, if required, shall be borne by the RIICO and State Government.

- (ix) We hereby direct all the respondents, particularly mentioned under the above head to formulate a well-considered scheme for removal of sludge contributed by the industries into the Jojri river within six months from the pronouncement of this judgment positively.
- (x) We hereby constitute a committee of Secretary Environment, State Government of Rajasthan as its Chairman; Member Secretary, Rajasthan Pollution Control Board as its Member Convenor; Senior Environmental Engineer, Central Pollution Control Board; Director of Industries; Senior Representative of Trust and RIICO, who shall supervise and submit a quarterly report to this Tribunal on the progress and implementation of these directions.

**Directions to the Trust:**

- (i) The Trust shall enhance its present capacity to accommodate the entire effluent generated in the industrial area. The treatment should be based on achieving zero discharge which includes the tertiary treatment. The Trust may propose a detailed plan for such augmentation and reuse of wastewater after treatment to achieve zero discharge including the system for charging the units based on volume of waste water and pollution load. Operating the CETP at 80% capacity is not sustainable. There should be

proper collection system for the effluent through underground sewerage in order to prevent ground water pollution during transportation of waste water.

- (ii) The Trust shall ensure installation of good quality, temper-proof electronic flow meter at the outlet point of each of the industries for regulating the flow allowing the volume of discharge for which consent has been granted. Any additional generation by the Industry shall not be allowed by Board unless they have their own captive treatment plant.
- (iii) Other industries located in the industrial area may be allowed by Trust to discharge their waste water after ensuring that the CETP has adequate capacity to treat the additional waste water and the industries have primary treatment facility including RO facilities and consent of the Board and they have paid their share in the cost of the CETP.
- (iv) Power back-up arrangement in the form of duly certified D.G. sets should be installed for continuous operation of CETPs even during power failure.
- (v) The raw effluents from all the member units should be conveyed to the CETP through closed conduit pipelines only. No raw effluent should be transported through open unlined drains.
- (vi) The discharge allowed by the Trust to each member-unit should be on scientific/rational basis, preferably

based on likely effluent quantity generated from the member-units depending on their manufacturing processes/machinery installed and quantity of cloth processed.

- (vii) A surveillance mechanism should be created to investigate every instance of non-compliance reported to the RSPCB using fast and modern communication. The RSPCB should have adequate arrangements to immediately respond to the complaint.
- (viii) Management of CETP: A manual of standardised procedures for operation and maintenance should be prepared for all the activities of the staff for monitoring the performance of the CETP on regular basis with a surveillance mechanism. These procedures should be mandatory and penalties must be imposed for each default.
- (ix) Sludge Disposal: The sludge generated at the CETP should be stored in covered sheds as per the prescribed guidelines and should be preferably co-incinerated in cement kilns or disposed of as per the Hazardous Wastes (Handling and Management) Rules 1989.
- (x) In view of dry condition in the receiving river, it is important that no effluent is discharged into the river. It should be reused after proper treatment up to



tertiary level. Treated effluent quality of the CETP has to be fit for its reuse. The entire waste water after treatment should be reused.

**Directions to Industries operating outside conforming area without consent:**

- (i) All other textile industries operating outside the conforming area shall be allowed by the Board to operate after they have their captive ETP and the treated waste water should be completely reused. No wastewater should be discharged into any drain or on land. However, as and when an industrial area is established by RIICO, they should be shifted to the new industrial area.
- (ii) The reject stream of reverse osmosis process is to be treated along with spent dye bath effluent.
- (iii) No discharge of highly polluting effluent, stream or R.O-rejects shall be allowed in any river, drain or on land.
- (iv) An electronic, tamper-proof good quality water meter should be installed at the outlet of each of the industries.
- (v) All such units should strive for adopting process/CETP modifications which result in waste minimization and conservation of chemicals, energy and water.

- (vi) The sludge generated from these units should be utilized for co-incineration in cement CETPs. The units should make such arrangement within three months from today.

**Directions for Members of the Trust**

- (i) The industry should have proper consent from RSPCB.
- (ii) Industry should obtain membership of the CETP Trust with allowed quantity of effluent discharge. They need to monitor through electronic tamper-proof meter the quantity of the effluent as permitted. They should not let more effluent into CETP than permitted.
- (iii) All the individual industries should have adequate primary treatment facility so as to achieve standards prescribed for inlet of CETP. Such facilities should be effectively operated continuously.
- (iv) All the member-industries should install electronic, tamper-proof and good quality water meter at the outlet of their primary treatment CETP. Industry should have only one single outlet for discharge of effluent to drain leading to CETP.

**Directions for the industries along the drain:**

- (i) All those industries located along the drain and not in the organized industrial area should immediately apply for the membership of CETP.
- (ii) The Trust should consider the applications expeditiously and plan for augmenting the treatment capacity based on the total additional volume required to be treated in view of the additional applications.
- (iii) These industries should also apply for consent from RSPCB after getting membership from the CETP Trust.
- (iv) The industry should install adequate primary treatment facility so as to achieve standards prescribed for inlet of CETP.
- (v) The industry should install electronic, tamper-proof and good quality water meter at the outlet of their primary treatment CETP. Industry should have only one single outlet for discharge of effluent into the drain leading to CETP.

84. The directions issued in this judgment shall be complied with within six months from the date of pronouncement of this judgment wherever no specific time limit has been prescribed. If any party needs any clarification or extension of time for

complying with the above directions, it shall be at liberty to approach the Tribunal.

85. The above directions shall be complied with by all the stakeholders – the State Government, the RIICO, the Trust, any other public authority or industry – in true spirit and substance and without demur or protest. We make it clear that in the event of any person, authority or Government does not carry out the directions aforesaid, shall render them liable for appropriate action in accordance with law, including under Section 28 of the NGT Act.

86. All these applications/writ petitions are disposed of in the above terms while leaving the parties to bear their respective costs.

**Hon'ble Mr. Justice Swatanter Kumar**  
**Chairperson**

**Hon'ble Mr. Justice M.S. Nambiar**  
**Judicial Member**

**Hon'ble Prof. (Dr.) P.C. Mishra**  
**Expert Member**

**Hon'ble Dr. R.C. Trivedi**  
**Expert Member**

Dated:  
April , 2014