

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

.....

Application No. 299 of 2013

In the matter of :

1. Krishan Kant Singh

H. No. 35, Village Dhanawli – Atta

Post Mudafra, District - Hapur

Uttar Pradesh - 245101

2. Social Action For Forest & Environment (SAFE)

Through Its President

A-93, Sector-36,

Greater Noida - 201308

....Applicant(s)

Versus

1. National Ganga River Basin Authority

Through Cabinet Secretary

Rashtrapati Bhawan

New Delhi - 110004

2. Union of India

Through Secretary

Ministry of Environment and Forest

CGO Complex, Lodhi Road

New Delhi - 110003

3. Central Pollution Control Board

Through the Member Secretary,

Parivesh Bhawan, East Arjun Nagar

New Delhi - 110032

4. Ministry of Water Resource
Through the Secretary
Shram Shakti Bhawan, Rafi Marg
New Delhi – 110001

5. State of Uttar Pradesh
Through Chief Secretary
Government of Uttar Pradesh
Secretariat, Lucknow – 226001

6. Uttar Pradesh Pollution Control Board
Through the Member Secretary,
Picup Bhawan, 2nd Floor, B-Block
Vibhuti Khand, Gomti Nagar
Lucknow – 226001

7. Simbhaoli Sugar Mills
Through Chairman
C-11, Cannaught Place
New Delhi – 110001

8. Gopalji Milk Food & Pvt. Ltd.
Village Syana, Dist. Bulandshaer
Uttar Pradesh - 245412

.....Respondent(s)

Counsel for Applicant(s):

Mr. Rahul Choudhary and Ms. Parul Gupta, Advocates

Counsel for Respondent(s):

Mr. Vikas Malhotra and Mr. M.P. Sahay, Advocates for Respondent No. 1 & 2.

Mr. Rajkumar and Ms. Arpana Poddar, Advocates for Respondent No. 3.

Mr. B.V. Niren, Mr. Prasouk Jain and Mr. Udit Gupta, Advocates for Respondent No. 4.

Ms. Savitri Pandey, Advocate for Respondent No. 5.

Mr. Pradeep Misra, Advocate and Mr. Daleep Kr. Dhyani, Advocates for Respondent No. 6.

Mr. Pinaki Mishra, Senior Advocate, Mr. Arjun Mahajan, and Mr. Vikas Malhotra and Mr. Sushil Shukla, Advocates for Respondent No. 7.

Ms. Sweta Rani for Mr. Arvind Kumar Shukla, Mr. S.A Zaidi and M.Z. Chowdhry, Ms. Vanita Bhargava, Mr. Ajay Bhargava and Mr. Ankur Khandelwal for United Spirits Ltd., Mr. Bharat Sangal, Ms. Srijana Lama, Ms. I.Abenla Aier, Mr. Sanjeev Kr. Singh, Mr. Asit Kumar, Mr. P.K Jain, Mr. Pawan Upadhyay, Mr. Rajesh Chhetri, Ms. Meenakshi Rawat, Mr. Pawan Upadhyay, Mr. Rajesh Chhetri, Meenakhi Rawat, Mr. Karan Luthra, Advocates for Respondent No. 8.

ORDER

PRESENT :

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON

HON'BLE MR. JUSTICE M. S. NAMBIAR, JUDICIAL MEMBER

HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER

HON'BLE MR. PROF. A. R.YOUSUF, EXPERT MEMBER

HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER

Dated : 31st May, 2014

JUSTICE M. S. NAMBIAR (JUDICIAL MEMBER):

The Application is filed under Section 14 of the National Green Tribunal Act seeking directions to the respondents to stop releasing harmful effluent from Simbhaoli Sugar mill and Distillery and Gopal Ji Dairy (Respondents no. 7 and 8 respectively) into Simbhaoli Drain and finally into the River Ganga and also for a direction to the Central Pollution Control Board (Respondent no. 3) to assess the pollution done by Respondents 7 and 8 and for restoration of the area and other reliefs by the Applicants, a person and an organization working in the field of environment, jointly. The case of the Applicants is that

respondent No. 7 is an industry of Sugar Mills and Distillery, established in 1933 and 1943 respectively. They are now operating three sugar mills and three distilleries in the State of Uttar Pradesh and the total crushing capacity is 20,100 TCD and the unit at Simbhaoli alone is having a crushing capacity of 9,500 TCD and they are discharging untreated effluent into a drain originating just outside the premises of the Distillery and Sugar Mill complex which is known as Simbhaoli Drain. This drain is finally opening into Siana Escape Canal, which is joining the Ganga River. Thus, the drain is polluting the nearby areas and contaminating the ground water of the villages Bauxar, Jamanpur, Syana, Bahadurgarh, Alampur and others, through which the drain is passing and finally meets River Ganga. The case of the Applicants is that the discharge from the Simbhaoli Drain is directly polluting the Ganga, the National River and it adversely effects River Dolphins and Turtles, for which River Ganga is a prime habitat.

2. According to the applicants the issue of pollution by Simbhaoli Sugar Mill and Distillery is very old and was being continued for the last several years and therefore, it is necessary to give necessary directions to stop the discharge of untreated effluent to Simbhaoli Drain and finally to River Ganga.

3. Respondent No. 7 resisted the allegations contending that the Industry is one of the oldest industries and it is situated in a low-lying. It was contended that they are regularly following all the rules and regulations prescribed and the instructions issued by the concerned Boards/ Regional Office from time to time and they have also disconnected their effluent drain from Phuldera Drain from the factory side and accordingly informed the authorities in the Month of March, 2008. They also contended that the Unit has installed reverse osmosis (RO) plant and multi-effect evaporator (MEE) and thus the unit has full facility to control and treat the effluent. The Respondent-7 follows all the terms and conditions of the consent order issued by the PCB for the year 2012 and 2013,

both for Effluent Treatment Plant (ETP) as well as Air Pollution Control Devices. According to the Respondent the distillery effluent is first treated by anaerobic digester as a primary treatment producing methane gas used in its boiler and then concentrate the primary treated effluent through Reverse Osmosis (RO) plant and then through MEE and stored in lagoons and used in bio-compositing process for making good quality bio-manure. The allegation of contamination of ground water was denied as baseless and it is contended that the industry produces organic bio-manure which is sold in the market for agricultural purposes and they are not causing any pollution whatsoever.

Both the Pollution Control Boards (CPCB and UPPCB) in their replies pleaded that the Respondent no 7 industry is a polluting industry and is a persistent defaulter and violated the various directions issued from time to time.

4. As it was clear that the Respondent-7 is a polluting industry and the respondents 7 and 8 disputed the case and 8 contended that they are not causing any pollution, we directed a Joint Inspection of the Industries by the Member-Secretary of Central Pollution Control Board (CPCB) with Member Secretary of U.P. Pollution Control Board. Pursuant to the directions they conducted a Joint Inspection and submitted a Report dated 13.02.2014. The Joint Inspection Report noted various deficiencies in respect of respondent no 7. When the Report was submitted Respondent no. 7 disputed its contents. It was the stand of the industries that their concerns were not fully addressed by the Joint Inspection. It was submitted by both the parties jointly that it is a fit case where the Expert Members of the Tribunal should visit the site to avoid any ambiguity, uncertainty in understanding the site situation and also to know the exact position. Taking note of the serious disputes regarding the anti-pollution measures being taken, issue of the dismantling of the concrete channel through which the industry is allegedly discharging its untreated

effluent and the functioning of Digesters, RO and MEE plants of the industry, we found that to put the matter in the correct perspective and to know the site situation and functioning of the anti-pollution devices, the Hon'ble Expert Members may visit the site on a convenient day and time. Accordingly, the three (3) of the Hon'ble Expert Members visited the site on 29.03.2014. The Experts took note of the following facts:

- i.** Although there is no visible discharge in the Phuldera drain from distillery during inspection or even few days before inspection, still there is dark brown coloured effluent observed at the confluence of Gang canal with Siana Escape Canal. The effluent is dark coloured and with an odour of distillery effluent. The effluent flowing in Phuldera drain was having high level of pollution as observed by the joint inspection carried out by CPCB and UP-PCB under the order of NGT. Such high pollution especially BOD, COD and TDS is not possible only due to sewage or Sugar Mill effluent. Such high level of pollution is only possible if distillery effluent is discharged may be not regularly but intermittently over prolonged period of time running in years which has caused deposition of leachate/sludge in the Phuldera drain.
- ii.** The industry has no separate arrangement for collection, treatment and disposal of leachate and storm water, therefore, entire storm runoff gets contaminated by spent wash, press mud or bio-compost as it is all in open and exposed to rain. With the present system, the only option is to pump it into the Phuldera drain, which carries it to Siana Escape and ultimately to Ganga river.
- iii.** The concept of zero discharge means that the effluent is properly collected (without subject to surface flow, where it is prone to groundwater contamination), treated and reused or destroyed through incineration. Such technologies are available and are being practiced in India elsewhere.
- iv.** The Distillery unit has provided treatment facilities, but the treatment units are not adequately working. For example the anaerobic digesters can bring down the BOD from 40,000 mg/L to about 4000 to 5000 mg/L, which is a well-established fact and practiced all over the country. In the present case, the industry is able to bring down BOD to only 12042 mg/L as observed by the CPCB. Even the other units are working only at 30% to 50% of their capacity. Shortage of effluent and low temperature in winters are likely reasons for poor performance of digester, which is not technologically correct and cannot be accepted as all the distilleries in the country are achieving the norms.
- v.** Steam shortage is claimed to be the reason for poor performance of the RO plant and MEE, as the unit can always provide external source of energy to fire the boilers. Such excuses cannot form ground for continuing pollution. This clearly indicate that the treatment plant is grossly inadequate and is a show piece. Even the bio-compost plant itself is a big source of pollution as it is exposed to rain and the area is water logged. The contaminated storm water is being regularly pumped into the Phuldera drain. Such practice needs to be stopped immediately.
- vi.** The Sugar Mill ETP is being operated. However, the lagoon receiving its treated effluent is having high level of pollution as clear from the results of inspection carried out by CPCB and UP-PCB. This again indicates that there is a by-pass arrangement for untreated effluent. The lagoons are unlined and the effluent is not being used for irrigation as prescribed in the directions issued by the CPCB and UP-PCB. This practice again is detrimental for the environment of the area and need to be stopped immediately.

5. Based on the observations, the following key issues were identified and measures to remedy the situation were suggested.

Key Issues:

- i. The industry is located in an area, which is not properly drained, thus subject to frequent water logging problem. The main reason for this water logging is that the area is locked by Railway line, NH-24, Gang Canal/ inspection road and thus not accessible to Phuldera drain, which is the main receiver of run-off water of this area. Until natural flow gradient is by construction of appropriate storm water drains including interceptor drains such that the run-off water could flow into this drain without getting mixed with leachate/sludge especially of compost yard.
- ii. During Rainy season, the entire compost yard is exposed to rain and hence the rainwater gets contaminated. The contaminated rainwater gets accumulated in the area as there is no natural outlet. Thus, water logging with highly contaminated water is a frequent problem. Such water also can get into the underground and may pollute it.
- iii. The treatment plant of Distillery is not working properly as is clear from the records. Even the primary treatment system i.e. anaerobic digester is working so poor that the outlet BOD is 12043 mg/L as per the report submitted by CPCB of February 13, 2014. The MEE and RO Plants are operated only at 30 to 40 percent capacity.
- iv. The sugar unit treated effluent is not being used for irrigation, but stored in unlined lagoons.

Way Ahead

- i. The Unit shall operate all the unit to their capacity and performance. As clear from the observations that even the primary treatment i.e. digesters are not working properly. The expected BOD after the digester is about 4000 mg/L against which the BOD of the digester is about 12042 mg/L. The industry should have adequate capacity for concentration of the entire spent wash through RO and MEE. Both these units should have online automatic monitoring arrangements for compliance with facility of transmission of data. The data transmitted to the UP-PCB and CPCB should be reviewed by these Boards and all abnormal situations should be brought to the knowledge of the industry along with corrective measures.
- ii. After concentration the spent wash should be incinerated for which the unit should have arrangement with cement plant or have their own incinerator. CPCB has already asked for it through its directions dated 10.08.2011. This has not been complied yet.
- iii. The unit should immediately improve the performance of anaerobic digester by upgrading it or installing the new ones.
- iv. The industry should dismantle all by-pass arrangements including concrete channel crossing Gang canal, pipelines and pumping network immediately. All underground by-pass arrangements should be dismantled immediately. They should construct a well-designed viable arrangement for draining the run-off water from their area.
- v. Since, the present compost plant is exposed to the rainwater and is causing serious rainwater pollution, this plant should be closed down immediately and go for incineration of their effluents as being done in other distilleries to achieve zero discharge. The industry should ensure that the compost lying in their yard does not come in contact with rainwater, which is one of the most serious causes of pollution of rainwater. It is not only polluting the rainwater but also polluting the groundwater of the area.

- vi. The sugar unit should dismantle the unlined lagoon, where the effluent is being stored, treat the effluent to achieve the prescribed standards. There should be an automatic monitoring system with temper-proof recording and online transmission facility. The data transmitted to the UP-PCB and CPCB should be reviewed by these Boards and all abnormal situations should be brought to the knowledge of the industry along with corrective measures. The treated effluent should be used for irrigation for which a well-designed plan should be prepared and implemented.
- vii. The industry should establish a regular monitoring mechanism to ensure use of its entire effluent for irrigation.
- viii. The units (both sugar and distillery) should reduce its water consumption as per the national norms. At present, the units are drawing substantial ground water for which online water consumption meter should be installed and accordingly, the water cess should be levied.
- ix. There should be proper flow meter for recording discharge from each of the units (temper-proof, electronic with automatic data logger) of ETPs (both sugar and distillery). The data should be online transmitted to the UP-PCB and CPCB instantly.
- x. The entire stretches of Phuldera drain from distillery unit upto its confluence with Siana Escape Canal should be properly dredged and aligned to clear any leachate/sludge deposition. UP-PCB may consider periodic monitoring of water quality at this location.
- xi. The industry should be asked to submit an action plan along with time line to implement such action plan to implement the above suggestions and renewal of consent to operate contingent upon the industry submitting and implementing the action plan.
- xii. The industry should be asked to pay appropriate fine (may be amounting to 1 crore) for causing water pollution all these years.
- xiii. The Gopaljee Dairy should establish an automatic continuous online monitoring system for the quality of final effluent, using some important indicator parameters. The data transmitted to the UP-PCB and CPCB should be reviewed by these Boards and all abnormal situations should be brought to the knowledge of the industry along with corrective measures.

6. The copies of the inspection note were furnished to all the parties including Respondent no. 7. The Experts found that Respondent no. 8 is complying with all the conditions.

7. As the inspection reveals that the Respondent no. 7 industries are a seriously polluting industries and immediate steps are required to be taken if the industries are to be permitted to operate and the distillery section which is lying closed because of non-grant of consent by the Board and the Sugar Unit is closed due to passing over of this reason, we directed that the Member Secretary of CPCB shall hold a meeting with all concerned and discuss all the issues which have been deliberated before us. Making it clear that it shall also require as to which of the suggestion cannot be implemented and if so for what

reason and whether there is any alternative available to impose such conditions for providing of anti-pollution devices.

8. After hearing the parties we found it necessary and formulated the following directions to be complied to remedy the problems and directed them to be considered in the meeting after furnishing copies of the same to all the concerned.

- i. The Unit shall operate the various plants/ equipment in a manner that the performance standards in relation to environmental norms are complied with. For example, primary treatment i.e. digesters is expected to achieve BOD level of 4000 mg/L against which the present level of BOD achieved from digester is about 12042 mg/L. Therefore, the unit should immediately improve the performance of anaerobic digester by upgrading it or installing the new ones. Similarly, the industry should have adequate capacity for achieving desired concentration of the entire spent wash through RO and MEE.
- ii. After concentration, the spent wash should be incinerated for which the unit should make arrangements for co-processing with cement plant or should install its own incinerator with boiler apropos to its requirement. The excuses for poor performance of any of the units based on non- availability of biogas, effluent quantity or any other reason should not be permitted.
- iii. The industry should dismantle all by-pass arrangements both in distillery and sugar unit including concrete channel crossing Gang canal, pipelines and portable/fixed pumping network immediately. All underground by-pass arrangements should also be dismantled.
- iv. The industry should plan and construct a well-designed viable arrangement for draining the run-off water only from their area (both sugar and distillery units) which in any case should not mix with domestic or industrial effluent /leachate or compost/press mud or any other solid wastes.
- v. Since, the present compost plant is exposed to the rainwater and is causing serious rainwater pollution; this plant should be closed down immediately. The industry should make arrangement for incineration of their concentrated effluents to achieve zero discharge.
- vi. The sugar unit should dismantle the unlined lagoon which in any case is on the other side of National Highway and hence no possibilities exist for repair and maintenance of the underground pipeline that transfers treated effluent from its ETP.
- vii. The ETP of the sugar unit should be operated round the clock in a manner that the prescribed environmental standards for effluent discharge are strictly adhered to.
- viii. Upon dismantling of all underground and surface bypass arrangement and segregating the storm water mixing with effluent, the industry should conceive and construct drain/pipe network for discharge of treated effluent to Phuldera drain such that the same could be utilized for irrigation purposes, if needed.
- ix. For the purposes of achieving desired output, the industry can take help from Irrigation & PH and Public Works Departments for obtaining technically viable options.
- x. Both the units should have online automatic monitoring arrangements for compliance of adherence to environmental standards. For this facility of transmission of real time data on BOD/COD/TOC, Turbidity and Conductivity should be created for Digester, RO, MEE, and ETP. These units should also be connected to power backup such that these are operating even during power failure. The data transmitted to the UP-PCB and CPCB should be reviewed by

these Boards and all abnormal situations should be brought to the knowledge of the industry along with corrective measures.

- xi. The units (both sugar and distillery) should reduce its water consumption as per the national norms. At present, the units are drawing substantial ground water for which online water consumption meter should be installed and accordingly, the water cess should be levied.
- xii. The entire stretches of Phuldera drain from distillery unit upto its confluence with Siana Escape Canal should be properly dredged and aligned to clear any leachate/ sludge deposition.
- xiii. The industry should submit an action plan incorporating the above suggestions along with time line. The renewal of consent and permission to operate shall be considered only after the action plan and implementation schedule are found satisfactory.
- xiv. The sugar and distillery industry should be asked to pay appropriate cost for environmental damages for causing water pollution all these years.

9. The Respondent no. 7 submitted an action plan before the Member Secretary of CPCB. In that action plan they took the stand that installation of its own incinerator with boiler is not beneficial to the environment, the manure which could be produced and utilized for agriculture would be wasted and even without incinerator the industry could achieve zero discharge. They also took the stand that they cannot dismantle the concrete channel crossing Ganga Canal as it is not their property but that of the Panchayat. They also contended that when the said direction cannot be complied with by them, construction of a well-designed viable arrangement for draining the run-off water from the low-lying compost yard needs help of expert agencies, and on getting their advise they will act accordingly. They also took the stand that it is not possible for them to carry out any work crossing the public road, railway or Gang Canal without the prior approval from the Concerned Authorities. Regarding direction on de sledging of Phuldera Drain, they contended that the Drain is the property of the UP Irrigation Department and they are following with the concerned Government Authorities for permission to clear the sludge deposition in the drain and to clean the drain.

10. Based on their joint inspection, technical knowledge and extent of pollution resulting from the functioning of these units and also the impact on environment on failure of the unit to take adequate antipollution devises, the

CPCB and UPPCB have taken a definite stand before us that it is most appropriate to issue following directions and these directions must be complied by the industries:

“3.1 Installation of incinerator for spent wash disposal: Incineration is practiced about 24 industries all over the country and as such no industry has submitted regarding the failure of this technology. Incineration is a better solution for the disposal of spent wash in view of environmental concerns. The industry themselves have submitted that they are located in a low lying area and experiencing frequent water logging and as such bio-composting in open yard cannot be considered a suitable environment safe measure for achieving ZLD.

Being a relatively new technology, operational difficulties may sometime occur in the operation of incinerators, which can be overcome by adopting suitable measures as required and such difficulties shall not be made an excuse for adopting the technology itself. The latest trend is for the adoption of incinerator for solving the pollution problems caused by spent wash.

3.2 Demolition of concrete pipeline: The concrete pipeline needs to be removed at any cost and it has to be ensured that no industrial effluent reaches 'Phuldera' drain. It has been an established fact that industrial waste has reached 'Phuldera' drain and possibility of overflow during rainy season still exists. It was also mentioned by UPPCB officials that the SDM had earlier given an order for demolition of the pipeline, which has been stayed by the higher court and the matter is pending before Court. It is essential for the removing the element of suspicion over the industry regarding bypass of effluent. The submission of the industry that the pipeline is a public property needs to be verified and the Hon'ble NGT may pass required orders as necessary to the concerned department in this regard.

3.3 Discharge of Storm water: The following suggestions were made for the discharge of storm water during rainy season;

1. Pumping out the storm water by using flexible piping arrangement during water logging in rainy season, ensuring that no colored water/industrial effluent reaches 'Phuldera' drain.

2. Collection of storm water surface runoff at a distant location from the existing one and suitably reusing it within the plant or in nearby agricultural fields or for ground water recharge.

3. Collection of storm water surface runoff at a distant location from the existing one and providing adequate treatment and discharging it into the irrigation canal after obtaining necessary permissions.

3.4 Segregation of effluent from storm water: In the case of distillery, industry should take necessary steps to segregate the non process effluents including bottle washing, gland leakages, plant washing etc. from mixing with storm water and alternate arrangements shall be made for disposing the same. For the sugar mills effluent, after ensuring that adequate treatment for achieving the standards are given and obtaining permission from local administration, UPPCB shall consider the proposal for discharging treated effluent into the municipal drain.

3.5 De-sludging of 'Phuldera' drain: It was felt that the Hon'ble NGT may pass any appropriate orders as required to the concerned department for de-sludging the same shall be borne by the industry.”

11. We heard the learned Senior Counsel appearing for the industry, the CPCB and the UPPCB and their respective experts on the controversial issues.

12. The Learned Senior Counsel appearing for the Respondent no. 7 submitted that the installation of the Incinerator may not be insisted as it would cause unnecessary financial burden to the industry and when most of the industries have not installed the incinerator Respondent no. 7 alone cannot be discriminated and it is violative of Article 14 of constitution of India. It was argued that the present method adopted by the industry is feasible and was even recommended by the pollution control Board and would help to generate bio manure for agriculture which would otherwise be lost if incinerator is to be used. It was submitted that the industry cannot by itself demolish and remove the concrete channel as it does not belong to the industry. The Learned Senior Counsel submitted that the Sugar Mill stands closed because of the off season, but the press mud is stored at the premises and if it is not utilized to make bio manure before the arrival of monsoon it would get mixed with rain water and may cause pollution and therefore, the industry is to be permitted to operate the Distillery unit so as to utilize the stored molasses and the press-mud so as to generate bio manure especially when there is shortage of manure for agricultural use. The Learned senior Counsel also submitted that if the Distillery is permitted to be operated, it will generate spent wash, which can be used for bio-composting the press-mud and therefore, they may be permitted to run the distillery.

13. The Learned Counsel appearing for the CPCB and UPPCB submitted that the old method of bio-compost is now not favored because of its inherent inadequacy in addressing all the environmental concerns and better technologies like incinerator are available which can achieve zero discharge. It was pointed out that the CPCB has already resolved to encourage installation of incinerator in all the distilleries , including replacing the existing bio-compost

technology and already 24 Distillery have installed incinerators in their units and they are functioning properly without causing pollution and are achieving zero discharge.

14. After hearing the learned Counsel appearing for the parties and their Experts and considering their views and analyzing all the relevant aspects we find that, at present Respondent no. 7 cannot legally entitled to operate the distillery for want of requisite consent from the PCB. It is the admitted case that there is no subsisting consent to operate the distillery which is a condition precedent to operate the distillery unit. Therefore on that sole ground the request of the Respondent no 7 to operate the unit is liable to be rejected. The contention of the Respondent No. 7 is that there is violation of article 14, if a direction for installation of incinerator is enforced as against their unit, as all other industries can operate without incinerators. This argument is misconceived in fact and in law. There cannot be a negative discrimination in law. Violation of law does not invite the concept of equality. All are expected to know and comply with the law in force. Furthermore, it has been brought to our notice that CPCB has already issued direction for conversion to better and modern technology i.e. from bio-composting to installation of incinerators. It is also brought on record that there are large number of industries i.e. 24 industries, operating successfully the incinerators installed and there is no pollution. It is not the financial burden on Respondent No. 7 that can be taken as a yardstick for determining the damage or degradation of the environment. Respondent No. 7 is obliged to run its business without causing damage or degradation of the environment and violating the prescribed parameters of trade effluent and air emission.

Admittedly, Respondent No. 7 has been causing pollution for the last 40 years after the preventive pollution laws came into force . For all these years it has violated the prescribed standards. Not only the Boards but even the Expert

Members of this Tribunal found the colour of the Phuldera drain has turned red due to the discharge of molasses and spent wash directly into the drain through the bypass illegally constructed by the industry. The change in the colour apparently appears to be due to lignin which is an aromatic, phenolic complex compound, which does not get degrade easily. The Respondent No. 7 cannot claim any right to run its industry while causing serious pollution hazards.

15. After analyzing all aspects of the case, we cannot agree with the submission made by the Learned Senior Counsel against adopting the method of incinerator. The defence raised against adopting incinerators cannot be accepted in the light of the latest technology available. The bio-compost method earlier adopted by the distilleries are proved to be not sufficient to achieve zero discharge and in addition is causing environmental hazards which cannot be allowed to be continued. Not only that the bio-compost method has failed to yield requisite results but also Respondent No. 7 in the garb of zero discharge, has persisted with polluting the underground water and Phuldera drain. This drain finally joints river Ganga which ultimately gets seriously polluted because of large number of distilleries on its banks. Leachate, overflow of the press mud in the bio-compost yard of the units and the spent wash are sources of serious pollutants more particularly in the rainy season. We also find that respondent no 7 is bound to comply with the directions formulated earlier and accepted by the PCBs to preserve and protect the environment. Before complying with the said directions, the Respondent no. 7 is not entitled to seek permission for operation of the Distillery Unit. It is up to the Respondent no. 7 to submit a time bound action plan as to how the directions are to be complied and satisfy, we cannot agree to the request to operate the Distillery for utilization of the stored press mud and molasses. We also find no reasonable basis for the apprehension of wastage of the stored press mud and molasses as they could be utilized otherwise by the industry. The Respondent

no. 7 can economically use the press mud by selling it to any Thermal Power Plant or Cement Industry, as it is reported that such industries are prepared to purchase the same for fuel. Similarly, the molasses available with the industry could be sent to any other distillery having adequate treatment facility. Both are viable.

16. As Respondent no. 7 would contend that the Phuldera drain is the property of the irrigation department, and it cannot be cleaned by the industry, it is made clear that the industry shall be permitted by the Irrigation department of the State of UP , to clean the same and remove the sludge at the expense of the industry, under the supervision of the officers of the irrigation department. So also as the industry has an apprehension that they cannot remove the concrete channel and construct new storm water drain through the property of the Government , and as the concrete channel does not belong to them, we find it necessary to give direction to the concerned Authorities of the State of Uttar Pradesh, to grant the necessary permission to the Respondent no, 7 to demolishing and remove the concrete pipeline and to construct a storm water drain to allow the draining of water from the premises of the industry into the Phuldera drain without mixing it with any industrial waste.

17. Before carrying out sludging operations, the UPPCB and CPCB are directed to collect sludge samples from the Phuldera drain at regular intervals of 500 meter starting from the vicinity of the distillery unit up to the confluence of Phuldera drain with Siana Escape Canal. The samples should be collected in the presence of the authorised representatives of the industries. The sludge samples should be collected at various depths i.e. from the surface 15 cm depth, 30 cm depth and 45 cm depth all along the central line of the Phuldera drain. The sludge samples should be sent for physical and chemical analyses to the CPCB Laboratory for the parameters related to sugar and distillery wastes. The soil samples from at least 5 more locations from the upstream of

the industry in the Phuldera drain should also be collected and analysed for same parameters to establish base line condition.

18. From all the corresponding locations referred above, water quality samples should also be collected and analysed including base line locations. This exercise should be completed within next fortnight. Five Hundred (500) meters from the centre line of the Phuldera drain on either Banks wherever bore-wells or tube-wells or hand-pumps are available, water samples should be collected and analyzed for relevant water quality parameters. On either Banks of the Phuldera drain soil samples should also be collected from the Agricultural fields and analyzed for relevant parameters to establish if the soil quality is affected by the industrial effluent.

All these reports shall be submitted to the Tribunal in the sealed cover.

19. Having discussed above the relevant issues in some elaboration, we direct that the Respondent No. 7 shall comply with all the directions stated in paragraph 8 of this order. Unless these directions are complied with at least substantially and for remnant if any, Respondent No. 7 applies for extension of time, we do not find any error in the Order/stand taken by UPPCB in declining grant of consent to operate to Respondent No. 7. Respondent No. 7 is at liberty to approach the Tribunal even prior to the next date of hearing if the circumstances so required.

This is an interim order. Let the petition be listed for final hearing before the Tribunal on 4th July, 2014, for further direction and submission of report by the respective authorities in terms of this order and for arguments.

....., CP
(Swatanter Kumar)

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

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

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

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

New Delhi

31st May, 2014



NGT