

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Review Application No. 14/2022
In
Original Application No. 136/2020

Veterans Forum for Transparency in Public Life

Applicant

Versus

State of Himachal Pradesh & Ors.

Respondent(s)

MoEF&CC

Review Applicant

Date of hearing: 24.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

IN CHAMBER BY CIRCULATION

ORDER

1. This application has been filed by the MoEF&CC for review of order of this Tribunal dated 06.04.2022 in *O.A. No. 136/2020, Veterans Forum for Transparency in Public Life v. State of Himachal Pradesh & Ors.* Thereby, the Tribunal dealt with the grievance of damage to the environment due to discharge of API residues by pharma companies. Reason for not preventing such damage according to the State PCB was that proposed standards had not been finalised. The Tribunal directed

that proposed standards be acted upon in the interest of environment.

Direction of the Tribunal inter-alia is as follows:-

“1to14....xxx.....xxx.....xxx

15. As regards the issue of pharma industries, we have noted the draft Notification dated 23.01.2020 as well as final Notification dated 06.08.2021 and also the stand of the parties that the standards proposed in the draft notification have yet to be finalized, except and to the extent of those mentioned in the Notification dated 06.08.2021. Draft standards were formulated and notified on 23.1.2020 i.e. more than two years ago, based on study by the experts. Regulatory mechanism is such important issues cannot remain in abeyance for indefinite period on the ground that the MoEF&CC is unable to finalise the draft standards even after two years. In view of serious consequences of unregulated discharge of API residue to the detriment of environment and public health, we consider it appropriate to direct under Section 15(1) of the NGT Act that pending finalisation by the MoEF&CC, standards proposed in the draft Notification dated 23.01.2020, which are based on expert studies, be strictly followed by all concerned. It is also necessary to abide by the guidelines of CPCB circulated on 31.1.2022, quoted above in the matter of standards and methodology on the subject. The State PCB may take further action accordingly to prevent and remedy the situation of unregulated discharge of harmful pollutants of pharma industries in the rivers.

16. CPCB may coordinate with the State PCBs to strengthen monitoring of API and assess Predicted No-Effect Concentration (PNEC) values. ETPs and CETPs may be upgraded to control the discharge of active ingredient. Ambient monitoring of recipient aquatic resources like rivers, lakes, ground water and other environmental entities be monitored, if necessary, with the assistance of institutions of repute. CPCB and PCBs may intensify monitoring of micro pollutants by regular vigilance.”

2. The above order was found necessary to address the grievance of discharge of toxic waste by the pharmaceutical industries which could not be treated by CETP and, thus, posed serious damage to the environment and public health. The MoEF&CC proposed standards but did not mention anything about them in the final Notification. The Tribunal accordingly directed under Section 15(1) of the National Green Tribunal Act, 2010 that standards laid down in the draft Notification be followed, which was necessary for protection of the environment.

3. In the review application stand of the MoEF&CC is that since the standards in the draft Notification have not been included in the final Notification, order of this Tribunal is not called for. We do not find any merit in the review application. The issue in question was duly considered and rehearing cannot be allowed in the guise of a review application. Jurisdiction of this Tribunal is not dependent on MoEF&CC's decision alone. To enforce sustainable development under section 20 of the NGT Act, direction under section 15 can be issued even beyond the decision of the MoEF&CC, as held inter alia in Mantri Techzone, (2019) 18 SCC 494, prs 41-42.

The application is dismissed.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

Dr. Afroz Ahmad, EM

May 24, 2022
R.A. No. 14/2022 in O.A. No. 136/2020
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