

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH,
KOLKATA**

.....
ORIGINAL APPLICATION No. 83/2017/EZ

IN THE MATTER OF:

**Saikhowa Sadiya Min Samabai Samity Limited,
A registered Fishery Co-operative Society,
Registered office at Hatighuli, Dholla,
District-Tinsukia, Assam,
Represented by Secretary, Shri Maina Biswas,
R/o Village-Hatighuli, P.O.-Saikhowaghat,
P.S.-Dholla, District-Tinsukia, Assam,
Pin – 786154**

....Applicant(s)

Versus

- 1. The Union of India,
Through Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhavan, Jorbagh Road,
Aliganj, New Delhi – 110003,**
- 2. The State of Assa,
Through Principal Secretary,
Govt. of Assam, Fishery Department,
Assam, Dispur, Guwahati, District-Kamrup(M),
India, Pin – 781006,**
- 3. The Deputy Commissioner, Dibrugarh,
District-Dibrugarh, Assam, India,
Pin – 786001,**
- 4. The Circle Officer, Dibrugarh West Revenue Circle,
District-Dibrugarh, Assam,
Pin – 786001,**

5. **The Central Pollution Control Board,
Through Chairman,
Parivesh Bhawan, CBD-cum-Office Complex,
East Arjun Naggar, Delhi – 110032,**

6. **The Pollution Control Board, Assam,
Through Member Secretary,
Maniram Dewan Road, Anuradha,
Railway Colony, Bamunimaidam,
Guwahati, Assam – 781021,**

7. **Brahmaputra Cracker and Polymer Limited, (BCPL),
Project office at Lepetkata, Dibrugarh, Assam,
Pin – 786006,**

....Respondent(s)

With

ORIGINAL APPLICATION No. 84/2017/EZ

IN THE MATTER OF:

**Dibrugarh Fishery Co-operative Society,
A registered Fishery Co-operative Society,
Registered office at North Amolapotty,
Dibrugarh Town, District-Dibrugarh, Assam,
Through Chairman, Sri Bikash Das,
R/o North Amolapotty, Dibrugarh Town,
District-Dibrugarh, Assam,
Pin – 786001,**

....Applicant(s)

Versus

1. **The Union of India,
Through Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhavan, Jorbagh Road,
Aliganj, New Delhi – 110003,**

2. **The State of Assam,
Through Principal Secretary,
Govt. of Assam, Fishery Department,
Assam, Dispur, Guwahati,
District-Kamrup(M), Assam, India,
Pin – 781006,**
 3. **The Deputy Commissioner, Dibrugarh,
District-Dibrugarh, Assam, India,
Pin – 786001,**
 4. **The Circle Officer, Dibrugarh West Revenue Circle,
District-Dibrugarh, Assam,
Pin – 786001,**
 5. **Central Pollution Control Board,
Through Chairman,
Parivesh Bhawan, CBD-cum-Office Complex,
East Arjun Nagar, Delhi – 110032,**
 6. **The Pollution Control Board, Assam,
Through Member Secretary,
Maniram Dewan Road, Anuradha,
Railway Colony, Bamunimaidam,
Guwahati, Assam – 781021,**
 7. **Brahmaputra Cracker and Polymer Limited, (BCPL),
Project Office at Lepetkata, Dibrugarh,
Assam – 786006,**
-Respondent(s)**

COUNSEL FOR APPLICANT:

None

COUNSEL FOR RESPONDENTS :

**Mr. Gora Chand Roy Choudhury, Advocate for R-1,
Ms. Diksha Rai Goswami, Advocate for R-2, 3 & 4,**

**Mr. Surendra Kumar, Advocate for R-5,
Mr. Sarosij Dasgupta, Advocate for R-6,
Mr. Prasun Mukherjee, Advocate a/w Mr. Satyakam
Chakraborty, Advocate for R-7,**

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

HON'BLE MR. SAIBAL DASGUPTA (EXPERT MEMBER)

**Reserved On:- 13th September 2021
Pronounce On:- 17th September 2021**

1. Whether the Judgment is allowed to be published on the net? **Yes**
 2. Whether the Judgment is allowed to be published in the NGT Reporter? **Yes**
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JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER)

These two Original Applications are being disposed of by a common order since the issues involved in these Applications relating to discharge of effluents by the unit of Respondent No.7, M/s Brahmaputra Cracker and Polymer Limited (BCPL), are absolutely identical.

The Original Application No. 83/2017/EZ is being taken up as the leading case with the consent of the learned Counsel for the parties.

2. This Original Application has been filed by the Applicant's society, Saikhowa Sadiya Min Samabai Samiti Limited, seeking a direction to ban the release of toxic effluents into the Brahmaputra Part-III, IV and V Fishery by the Brahmaputra Cracker and Polymer

Limited (hereinafter referred to as 'BCPL') and to shift the release point of the effluents through underground pipe carried out by the BCPL downstream the river Brahmaputra beyond the boundary of the Brahmaputra Part-III, IV and V Fishery.

3. The Applicant is a society settled in Brahmaputra Part-III, IV and V Fishery in the State of Assam and by an order of the Deputy Commissioner, Dibrugarh, dated 16.01.2017, the boundary of the said fishery was identified and the Applicant was delivered possession of the said fishery on 17.01.2017. Environmental Clearance was granted by the Ministry of Environment, Forest and Climate Change, (Respondent No.1), by a communication dated 14.05.2003 to a Petrochemical Complex Project at Lepetkata, Dibrugarh demarcated under M/s Reliance Assam Petrochemicals Limited. It was stated therein that the Environmental Clearance was granted subject to strict compliance of the conditions mentioned therein. Subsequently, a 'No Objection' was granted by the Ministry of Environment, Forest and Climate Change, Government of India on 13.06.2005 for transfer of the Environmental Clearance from M/s Reliance Assam Petrochemicals Limited to M/s Gas Authority of India Limited and by a subsequent 'No Objection' granted by the Ministry of Environment, Forest and Climate Change on 23.09.2011, the Environmental Clearance was transferred in the name of M/s Brahmaputra Cracker and Polymer Limited, Respondent No.7.

4. The allegation of the Applicant is that the Respondent No.7, BCPL, discharges its liquid waste flowing out from the industrial complex, factory and commercial establishment into the boundary of the Brahmaputra Part-III, IV and V Fishery thereby destroying the river environment, causing death of fishes and aquatic life in the river Brahmaputra. The Applicant's society, therefore, suggests that the existing ecological balance can be saved from ruin if the release point of the toxic effluents is allowed to pass through underground pipe beyond the boundary of the Brahmaputra Part-III, IV and V Fishery.

5. Heard the learned Counsel for the parties present and perused the documents on record. None is present for the Applicant.

6. An affidavit dated 28.07.2017 has been filed on behalf of the Respondent No.6, Assam Pollution Control Board, mentioning therein that the water samples from the diffuser outlet at Brahmaputra river was collected on 13.06.2016 for analysis by the Board officials in the presence of the authorities of M/s BCPL and the analysis report showed that the water samples were within the permissible limit but at present, i.e., at the time of filing of the affidavit dated 28.07.2017, no water samples could be collected beyond the diffuser outlet as the river was in flood and there was no access to the discharge point.

7. Thereafter, another affidavit dated 27.10.2017 was filed on behalf of the Respondent No.6, Assam Pollution Control Board, filing a fresh inspection report dated 25.10.2017 containing the

samples of waste water before treatment, treated waste water before discharge and water samples from the discharge points and downstream of the discharge points for analysis. This analysis report has been reproduced by this Tribunal in its order dated 02.11.2017 which reads as under:-

I. "SAMPLE INFORMATION

1. Source : Effluent from ETP (Guard Pond of M/s BCPL, Lepetkata,)
2. Date & Time of Collection: 2017-08-07 at 12:15 PM
3. Date of Receipt : 2017-08-08
4. Collected by : Mr. B. Gogoi, AE

ANALYSED PARAMETERS:

		Permitted Standard
pH	9.3	6-8.5
Oil & Grease	13.6 mg/l	5 mg/l
Biochemical Oxygen Demand	76.0 mg/l	15 mg/l
Chemical Oxygen Demand	307.4 mg/l	125 mg/l
Suspended Solid	79.0 mg/l	20 mg/l
.....”

II. "SAMPLE INFORMATION

1. Source : Effluent from ETP (Guard Pond of M/s BCPL, Lepetkata,)
2. Date & Time of Collection: 2017-09-05 at 12:30 PM
3. Date of Receipt : 2017-09-06
4. Collected by : Mr. B. Gogoi, AE

ANALYSED PARAMETERS:

		Permitted Standard
pH	7.3	6-8.5
Oil & Grease	5.1 mg/l	5 mg/l
Biochemical Oxygen Demand	28.1 mg/l	15 mg/l
Chemical Oxygen Demand	142.0 mg/l	125 mg/l
Suspended Solid	76.0 mg/l	20 mg/l
.....”

Since the Respondent No.7 had failed to appear before the Tribunal in spite of the service of notice, the Tribunal in its order dated 02.11.2017 had directed that the unit of Respondent No.7 shall remain closed until the next date and Respondent No.7 was also directed to show cause before the next date fixed, as to why the order of closure be not made absolute.

8. A reply dated 28.11.2017 was filed on behalf of the Respondent No.7, stating therein that the reports filed by the Respondent No.6, Assam Pollution Control Board pertained to samples taken at Guard Pond of Effluent Treatment Plant (in short 'ETP') which is not the discharge point of the effluents. It was also stated that there are three Guard Ponds in the ETP i.e., Guard Pond A, B and C wherein the processed effluents of ETP is collected for final quality check. In case the effluents quality for Guard Pond does not meet the permissible limit, it is recycled back for re-processing until the permissible limit is achieved, and if the effluent quality is found to be within the stipulated standards, the same is transferred to the treated effluent sump for final discharge. The discharge from this treated effluent sump is then connected to the treated Contaminated Rain Water System (CRWS) stream before being finally discharged. This stream is the final discharge point/line of the Respondent No.7 Company and an online monitoring system has been installed at this point only and is also connected to the server of the Central Pollution Control Board. The results of the online monitoring system shows that the discharge

quality of the effluents is within the permissible limit as prescribed by the State Pollution Control Board and, therefore, the sample for purposes of testing the norms and standards should be collected from this point only for monitoring. It was also stated by the Respondent No.7 Company that against the permitted effluents discharge quantity of 11588 m³/day, the actual discharge from the Respondent No.7 Company is minimal (average less than 100 m³/day).

9. The Tribunal in its order dated 16.01.2018 observed that though all that has been stated in the reply of Respondent No.7, may only be one of the relevant considerations, it cannot be the sole consideration and that before arriving at a correct analysis appropriate prescribed emission parameters as provided in the Environment (Protection) Rules, 1986 and the Schedule thereto must be applied.

10. In the meantime, the Respondent No.6, Assam Pollution Control Board, has also filed a compliance affidavit dated 03.01.2021, stating therein that the Board vide its order dated 09.10.2020 has granted Consent to Operate to the Respondent No.7 unit under the Water Act and Air Act upto 31st March, 2021 and by a further order dated 28.06.2021 Consent to Operate was also granted upto 31st March, 2022.

11. Thereafter, the case was taken up on 06.08.2021 as in between no Bench of the National Green Tribunal was available at Kolkata and, therefore, we directed the Respondent No.6, Assam

Pollution Control Board to file a fresh affidavit bringing on record the current water samples/analysis report of the Respondent No.7 unit.

12. A compliance affidavit dated 04.09.2021 has been filed by the Assam Pollution Control Board in pursuance of the order dated 06.08.2021, wherein a fresh analysis report of treated effluents of Respondent No.7 unit at final discharge point of Brahmaputra River (inside campus) and water sample collected from Sessa river downstream of M/s BCPL, Respondent No.7 unit, Lepetkata both collected on 18.08.2021 has been filed. The analysis reports of the same are reproduced herein below:-

“ANALYSIS REPORT OF TE-137/21

SAMPLE INFORMATION

1. *Source* : *Treated Effluent of M/ s BCPL at Final Discharge Point of Brahmaputra River (inside the campus).*
2. *Date & Time of Collection:* *2021-08-18 at 12:00 AM*
3. *Date of Receipt* : *2021-08-19*
4. *Collected by* : *Mr. B. Gogoi, AE*

ANALYSED PARAMETERS:

		Discharge Standard
<i>pH</i>	<i>7.2</i>	<i>6.0-8.5</i>
<i>Ammonical Nitrogen</i>	<i>1.4 mg/l</i>	<i>15 mg/l</i>
<i>Biochemical Oxygen Demand</i>	<i>13.06 mg/l</i>	<i>15 mg/l</i>
<i>Chemical Oxygen Demand</i>	<i>57.6 mg/l</i>	<i>125 mg/l</i>
<i>Copper</i>	<i>BDL mg/l</i>	<i>1 mg/l</i>
<i>Hexavalent Chromium</i>	<i>BDL mg/l</i>	<i>0.1 mg/l</i>
<i>Mercury</i>	<i>BDL mg/l</i>	<i>0.01 mg/l</i>
<i>Nickel</i>	<i>BDL mg/l</i>	<i>1.0 mg/l</i>
<i>Oil & Grease</i>	<i>3.7 mg/l</i>	<i>5 mg/l</i>
<i>Dissolved Phosphate</i>	<i>1.6 mg/l</i>	<i>3 mg/l</i>

Lead	BDL mg/l	0.1 mg/l
Phenolic Compound	0.1 mg/l	0.35 mg/l
Suspended Solid	18.0 mg/l	20 mg/l
Sulphide	BDL mg/l	0.5 mg/l
Total Chromium	BDL mg/l	2 mg/l
Total Kjeldahl Nitrogen	5.6 mg/l	40 mg/l
Zinc	0.283 mg/l	5.0 mg/l”

BDL: Below Detectable Limit

**i/c, Laboratory,
PCB, Assam**

“ANALYSIS REPORT OF TE-138/21

SAMPLE INFORMATION

1. Source : Water from Sessa River at down-Stream of M/s BCPL, Lepetkata,
2. Date & Time of Collection: 2021-08-18 at 12:30 PM
3. Date of Receipt : 2021-08-19
4. Collected by : Mr. B. Gogoi, AE

ANALYSED PARAMETERS:

pH	6.8
Oil & Grease	BDL mg/l
Biochemical Oxygen Demand	1.1 mg/l
Chemical Oxygen Demand	2.9 mg/l
Suspended Solid	34.0 mg/l
Phenol	BDL mg/l
Sulphide	BDL mg/l
Ammonia	0.4 mg/l
Total Kjeldahl Nitrogen	1.4 mg/l
Phosphate as P	0.8 mg/l
Hexavalent Chromium	BDL mg/l
Total Chromium	BDL mg/l
Lead	BDL mg/l
Mercury	BDL mg/l
Zinc	0.164 mg/l
Nickel	BDL mg/l
Copper	BDL mg/l

BDL: Below Detectable Limit.

**i/c, Laboratory
PCBA”**

13. A perusal of the analysis report shows that all the parameters taken from water from Sessa river at downstream of M/s BCPL (Respondent No.7), Lepetkata, are well within the permissible limits.

14. Considering these facts, nothing further remains to be adjudicated in this case. The Original Application No. 83/2017/EZ and the Original Application No. 84/2017/EZ are dismissed accordingly.

15. There shall be no order as to costs.

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B. AMIT STHALEKAR , JM

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SAIBAL DASGUPTA, EM

**Kolkata,
17th September, 2021**

**Original Application No. 83/2017/EZ
With
Original Application No. 84/2017/EZ
AK**

NGT