

Item No. 01

Court No. 1

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

Original Application No. 801/2018

(With report dated 01.01.2021)

Jasmeet Singh

Applicant

Versus

State of Himachal Pradesh

Respondent

Date of hearing: 04.01.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent: Mr. Nalin Kohli, Advocate for HPSPCB

ORDER

1. The issue for consideration is the remedial action against pollution of River Balad in Baddi industrial area in District Solan, on account of leakage from the Common Effluent Treatment Plant (CETP).

2. The matter was considered on several occasions earlier. On 14.01.2020, the Tribunal considered the report dated 06.11.2019 filed by the State PCB to the effect that violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974 ("Water Act, 1974") was taking place by discharge of polluted effluents in the water bodies. The same is reproduced below for ready reference: -

"2.0 Inspection of CETP Baddi

i) The CETP is designed to treat five different categories of effluent as tabulated under

Sr. No.	Category	Sector of Industry	No of Units	Consented effluent quantity (in
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				MLD)
1.	I	Food, Paper and Textile	89	15.55
2.	II	Soap & Detergent	112	2.0
3.	III	Pharmaceutical	213	2.9
4.	IV	Dyeing	4* M/s Auro Textile Unit – I, M/s Auro Dyeing Unit – I, M/s Winsome Textile Industries	2.0
5.	V	Electroplating, Metal surface finishing	31	0.042
Total			449	22.492
				Say 23.00

- ii) It was observed that at an average of 17 mld effluent is treated by the CETP, comprising equalization tank, primary settler, aeration tank, reaction tank, secondary and tertiary clarifier. The treatment process for each stream is appended with the report (**Annexure IV**).
- iii) **It was noticed that effluent of category IV is not reaching to its designated equalization tank. M/s Baddi Infrastructure Ltd., has informed that the dedicated pipe network to carry the effluent of category IV is blocked. The effluent of category IV is therefore being discharged through pipe network of Category I.**
- iv) **It is also observed that the CETP is designed to treat category V effluent by mixing with category IV effluent to optimize the chemical consumption and to achieve effective treatment. Since, the effluent of category IV has been mixed with category-I, in the pipe network itself before reaching CETP, which has resulted in formation of a new complex effluent for which the CETP was not designed. Therefore, it could not able to deliver the desired results w.r.t. treatment and thus, effluents was in non-conformity with the standards, as per the monitoring results of HPPCB (Annexure-V). Besides, the effluent of category V remained effectively untreated throughout the CETP process.**
- v) The performance of CETP is being regularly monitored by HPPCB. The monitoring data (Annexure-V) indicate that the performance of the CETP is far from satisfactory for having not met the discharged standards. The data reveal that effluent quality does not conform the standards of Chloride (limit of 1100 mg/ 1 max.), Total dissolved Solids (TDS) (LIMIT OF 2100 MG/ 1 Mmax.) and Biochemical Oxygen Demand (BOD) (limit of 30 mg/ 1 max.).

- vi) *The CETP has provided online continuous effluent monitoring system for pH, Total Suspended Solids (TDS), Chemical Oxygen Demand (COD) and Total Organic Content (TOC) and data so recorded are linked with the server of HPPCB and CPCB.*

While collecting the sample from the final outlet of tertiary clarifier and discharge point at River Sirsa, difference in colour of effluent was observed. The sample collected from the discharge point was lighter in colour than that of outlet of tertiary clarifier; giving rise to possibility of dilution. (Photograph: Plate-I)

- vii) ***The Committee also recorded that the Textile Units, which are generating the effluent of Category IV, were earlier operating their own effluent treatment plants prior to commencement of CETP and found it viable to operate due to their scale of production.***

- viii) *The designed treatment criteria of CETP are to treat effluent, stream-wise, following segregation at source, effluent of Category-I is mixed with Category-IV, resulted in alternation of criteria, hence treated effluent.*

- ix) *For increasing the connectivity, the CETP has proposed of laying conveyance (pipeline) for a total length of 5.8 kms. The status is as under.*

Sr. No.	Location	Stretch in meters	Status of permission obtained	Remarks
1.	Zydu Cadilla to Legacy Food on Baddi Barotiwala road	1655	Permission granted by HPPWD	Work has been awarded by M/s Baddi Infrastructure Ltd vide letter dated 27-09- 2019. (Annexure-VI)
2.	Maplur- Baddi electrical substation upto Bhud near Maxtar Bio Genics Company	2250	Permission not granted by NHAI	
3.	Bhud to Lehi	1900	Permission granted by HPWD	
Total		5805		

To safeguard the interest of environment from being deteriorated further and having understanding of pollution problem, its cause and remedial measures, the Committee recommends following:

- i) **Textile industries (SI. No.1 to 5, Table 1) engaged in dyeing-process generating effluent of Category-IV, as mentioned above for the purpose of designing and operating CETP, should stop its operations with immediate effect, until and unless the dedicated conduits supposed to carry the said effluent, is brought to back functional.**
- ii) These units shall resume operation of their ETP to impart effective treatment on effluent of Category-IV so as to meet the standards and shall pump treated effluent to the pipe network designated to carry effluent of Category-I for further treatment at CETP.
- iii) **These units shall resume operations only upon satisfactory performance of ETP which was brought back to functional and shall be monitored once in a month by HPCB.**
- iv) M/s Baddi Infrastructure including Ltd. is to ensure proper maintenance of CETP and its infrastructure including pipe network designed to receive effluents from member industrial units. M/s Baddi Infrastructure Ltd. has to ensure operation of CETP as per the defined protocol and in accordance to standard operating practice which is in place. In case, any variation (beyond the designed criteria) of effluent quality is noticed by CETP the same shall be brought to the knowledge of SPCB, in writing. The SPCB shall acknowledge the communications and shall act to identify the cause for taking all necessary steps for taking all necessary steps to eliminate/minimize such variation.
- v) **M/s Baddi Infrastructure Ltd. has to install activated carbon, pressure sand filters and ozonizer before the treated effluent is discharged. This refers the Detailed Project Report of CETP-Baddi, which finds mentioned of the system but has not been provided by M/s Baddi Infrastructure Limited.**

Reference is made on the observations recorded by the Committee constituted by Hon'ble Tribunal in O.A. No.916/2018 in the matter of Sobha Singh and Others v/s State of Punjab and Others, wherein the Committee recommended that Rs.1.0 crore to be levied on CETP-Baddi as Environmental Compensation for untreated effluent discharged into River Sirsa. The CETP discharged, joining the river, has failed to meet Bio-assay Test (Toxicity on fish: 0% survival with 100% effluent for 96 hours). This would have caused impact on water and land (soil) environment, plants and vegetation, aquatic life and human health all along downstream of CETP-Baddi.

Thus, Committee also recommends the following:-

- vi) *Environmental compensation (EC) to be levied to CETP-Baddi (M/s Baddi Infrastructure Ltd) for not having done effluent treatment upto the standards and to those Textile Industries (dyeing units) responsible for making CETP defunct. The EC would be proportionate as under.*
- a) *CETP-Baddi has to pay environmental Compensation t the tune of Rs.1.91 Crores for non-compliance of discharged standards, estimated based on violation recorded by HPPCB over last one and half year [19.10.2017 - 01.11.2019] (**Annexure VII**) including compensation to the tune of Rs.87.9 Lakh imposed by HPSPCB dated 15.10.2019 over one year [20.11.2018 to 09.09.2019] (**annexure VIII**).*
- b) *Textile Industries (dyeing units) are to pay establishment cost of CETP and cost of pipe network which was brought to state of irreparable.*
- vii) *HPPCB is to review the notification, dated 17.03.2018 wherein Total Suspended Solids (TSS), Oil & Grease and pH have been notified TDS, BOD, Chloride and Sulphide may also be considered for inclusion in the notification as these have critical bearing on operation and performance of CETP designed to impart effective treatment. HPPCB may undertake similar exercise as done in case of notification, dated 29.06.2019 for CETP Paonta Sahib, wherein eight parameters including those referred here, have been considered. Such notification may be issued in consultation with CPCB.*
- viii) ***For optimal performance of CETP-Baddi, HPPCB is to ensure regulating and monitoring mechanism be in place by asking all member units (falling under red category) of CETP to install online continuous effluent monitoring system. The data so recorded shall be made available on SPCB and CPCB server for effective control.***

3. The matter was last considered on 18.06.2020 in the light of compliance report dated 11.06.2020 filed by the State PCB. It was observed:

- “ xxx xxx xxx
5. *In pursuance of above, the State PCB has filed a ‘compliance report’ dated 11.06.2020 to the effect that the units gave action plans which are not satisfactory as long timeline have been prescribed.*
6. ***We do not find the report to be as per the mandate of law. If the pollution is continuing, the State PCB is under obligation to close the polluting activities by exercising its jurisdiction under the Water Act, 1974 and recover compensation from the polluters. Till pollution is stopped, polluting activities, which are punishable crime under the law, cannot continue.***

The State PCB has failed to take action merely on the ground that action plan was being prepared or had been prepared which was not satisfactory. None appears for the State PCB.”

4. Accordingly, the State PCB has filed its report on 01.01.2021. It mentions that the State PCB issued show cause notice dated 23.06.2020 to the concerned textile units for closure and recovery of compensation against which writ petitions were filed before the Himachal Pradesh High Court. The High Court, vide order dated 22.07.2020, directed that the matter be heard by the Principal Secretary, Environment and fresh order passed. The Principal Secretary, Environment passed further order on 30.12.2020 directing the State PCB to take action for enforcement of law since violation of law was established. The Principal Secretary, Environment held:

“xxx xxx xxx
..... ***But this fact cannot be ignored that effluent discharge, FDS in particular, by these units is beyond the prescribed limits which is contributing to pollution. In the light of this discussion, I am of considered view that, keeping in view the above position, SPCB may take action strictly according to the provisions of Law and rules applicable in this case.”***

5. The State PCB accordingly issued fresh show cause notice on 28.12.2020 and passed further order dated 01.01.2021 as follows:

“xxx xxx xxx
Whereas, the effluent of category-IV being contributed by the unit M/s Auro Textiles, Sai Road Baddi, Distt. Solan, H.P to the CETP for final disposal and treatment by unit is not complying since 25-7-2020 till date to the discharge standards as prescribed in the schedule-1 of EP Rules, 1986 as well as the inlet quality standards notified by the State Government and thereby causing water pollution.

Xx xx xx

Now, therefore, in consideration of the facts stated above, in view of the directions of Hon'ble High Courts orders, Hon'ble NGT and the orders passed by Principal Secretary (Env, S&T) Govt of HP and in exercise of the powers conferred under section 32 and 33-A of Water (Prevention & Control of Pollution) Act, 1974 M/s

Auro Textiles, Sai Road Baddi, Distt. Solan, H.P. is hereby directed to:

- 1. Immediately shut down the dyeing process of the textile unit contributing towards the category- IV effluent to CETP, Baddi, till the unit becomes compliant.*
- 2. Pay Environment Compensation to the tune of Rs. 42 lakhs (Forty Two Lakhs only) for the violation period w.e.f. 25-07-2020 to 31-12-2020 (140 days excluding the period of compliance)."*

Identical orders are said to have been passed against four textile units.

6. We have heard Shri Nalin Kohli, learned Counsel appearing for the State PCB.

7. We find that though in the show cause notice the State PCB proposed disconnecting power supply, this direction has not been given in the final order. We also find that the CETP has still not complied with the environmental norms for which remedial action needs to be taken by the State PCB, by improving quality and reducing the load of inlet so as to be consistent with the designed capacity of the CETP or closing such units contributing to the waste for which the CETP is not designed till the concerned units make their own arrangement for treating the effluents. The member industries may be considered non-compliant, if they do not undertake primary treatment as per EC conditions of the CETP. The industries having effluent generation more than 200 KLD may be directed to treat the effluents and recycle/reuse to the maximum extent and also reducing the FDS. Wherever required, water audit of red category non-compliant units be conducted. The requisite pipeline may also be required to be constructed by the CETP to carry the waste.

8. Let further progress report be filed before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List for further consideration on 12.05.2021.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

January 04, 2021
Original Application No. 801/2018
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