Item No. 02 (Court No. 1)

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(By Video Conferencing)

Appeal No. 23/2020

(With report dated 10.01.2022)

M/s Kisan Sahkari Chini Mills Ltd. Appellant

Versus

Member Secretary U.P. Pollution Control Board & Ors. Respondent(s)

Date of hearing: 25.03.2022

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. AFROZ AHMAD, EXPERT MEMBER

Appellant: Mr. Amarjeet Kumar & Mr. Tarun Khurana, Advocates

Respondent(s): Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocates for UPPCB

ORDER

1. This appeal has been preferred against the order of the U.P. State PCB dated 03.07.2020 under Section 33A read with Section 27(2) of the Water (Prevention and Control of Pollution) Act, 1974 levying environmental compensation on 'Polluter Pays' principle to the extent of Rs. 15.2 lakhs for continued violation for 76 days from 12.12.2019 to 26.02.2020. The appeal was filed on 24.08.2020 and was considered on 03.09.2020 alongwith other appeals raising identical issues being Appeal No. 24/2020 and other connected matters filed by the sister concern of the appellant.

2. Vide order dated 03.09.2020, the Tribunal sought an independent report from CPCB and State PCB after visit to the site. The matter was thereafter considered on 12.04.2021 in the light of report filed on 19.02.2021. Since the report focused only on appeal No. 25/2020, the said appeal was dismissed in view of the said report and further independent report was required to be filed in the present appeal and other connected appeals, being Appeal Nos. 24, 28 and 29 of 2020, which are being dealt with by separate orders today, considering the reports filed in the said matters.

3. The report in the present appeal has been filed on 10.01.2022 with following observations, conclusions and recommendations:

> *"**3.0 Observations:***
>
> *1. The unit has infrastructure for production of Sugar using Sugar cane as major raw material with consented capacity of 2500 TCD. During the inspection, the unit was in operation. The unit has started its cane crushing on 23.11.2021 for the current crushing season 2021-22.*
>
> *2. The unit was granted Consent to Operate under the Water (PCP) Act, 1974 and the Air (PCP) Act, 1981 by UPPCB, which was valid upto 31.12.2020. The unit has applied for renewal on 11.11.2021, which violates the Water (PCP) Act, 1974 and the Air (PCP) Act, 1981 to apply. Consent to Operate 90 days before expiry of consent. Further, the unit is presently operated without consent to operate from SPCB.*
>
> *3. The unit has presently two (02) bore wells to meet its fresh water requirement. Electromagnetic water meter is installed in one bore well. The unit has not maintained proper log book of fresh water consumption as meter reading in flow meter and log book are not matching. As informed by the unit representative, one borewell is not in use. The unit has obtained NOC from CGWA, which was valid upto 27.02.2020. The unit has applied for renewal of NOC on 26.02.2021 from CGWA, which is yet to be granted.*
>
> *4. The unit has established Effluent Treatment Plant (ETP), which comprises of following:*

a. *Oil and Grease Trap*
b. *Equalization Tank*
c. *Primary Clarifier*
d. *Aeration Tank*
e. *Secondary Clarifier*
f. *Multi Grade Filter,*
g. *Activated Carbon Filter,*
h. *Sludge Drying Beds and*
i. *Treated effluent storage lagoon-5800 m^3*

5. *During inspection, effluent is received to ETP and only Equalization Tank, Primary Clarifier and Aeration Tank of ETP were in operation. Sample was collected from Equalization Tank and Aeration Tank of ETP. Analysis results are presented below:*

Sampling location	***Parameters***						
	pH	***SS (mg/L)***	***TDS (mg/L)***	***BOD (mg/L)***	***COD (mg/L)***	***MLSS (mg/L)***	***MLVSS (mg/L)***
Equalization Tank	*4.29*	*343*	*1107*	*912*	*1692*	*-*	*-*
Aeration Tank	*-*	*-*	*-*	*-*	*-*	*171*	*148*

6. *It is evident from the results that ETP is not stabilized as MLSS and MLVSS are very low.*
7. *During inspection, no overflow from Aeration Tank to Secondary Clarifier was observed.*
8. *The unit has installed OCEMS at the outlet of ETP and it was informed that OCEMS data is connected with UPPCB and CPCB server.*
9. *Launder of Primary and Secondary Clarifier was not levelled.*
10. *During inspection, it was observed that effluent drain to ETP is damaged at several place. Due to this, overflow effluent is found stagnant near ETP.*
11. *The unit has not provided separate energy meter for ETP.*
12. *The unit has not provided filtrate system at Sludge Drying Beds.*
13. *The unit has provided electromagnetic flow meter at the inlet and outlet of ETP. Treated effluent from the unit on 07.12.02021(as per log book) was observed as 217 litre per ton of cane crushed as against stipulated norms of 100 litre per ton of cane crushed.*
14. *The unit has Installed Sulphur Recovery Plant for treatment of spray pond overflow, which was found non-operational. As informed by the unit representative, due to no overflow from spray pond Sulphur Recovery Plant was non-operational. The unit has provided flow meter at Sulphur Recovery Plant.*

15. *It was also informed that the unit was non-operational due to power problem in the last 08 hours and resume production at 11.00 AM on date of inspection.*
16. *The unit has provided a lagoon with capacity -5800 m^3 for storage of treated effluent. During inspection, no treated effluent is sent to lagoon. The unit has reported to use of treated effluent in 69.16 Hectare. But, no system for use of treated effluent for irrigation and irrigation area was observed.*
17. *During inspection, it was observed that the unit has provided a bypass drain on back side of the unit. Bypass drain is meeting to Garha nalla, which meet to Katna River. Katna River meet River Garra, which ultimately meet River Ganga.*
18. *Sample was collected from the bypass drain. Analysis results are presented below:*

Sampling location	***Parameters***					
	pH	***SS (mg/L)***	***TDS (mg/L)***	***BOD (mg/L)***	***COD (mg/L)***	***Oil & Grease (mg/L)***
Bypass drain	*4.49*	*64.1*	*897*	*480*	*852*	*6.85*

19. *It is evident from above results that unit is discharging untreated and polluted effluent into Garha nalla through bypass drain.*

20. *During inspection, it was observed that a municipality drain (Garha nalla) was passing adjacent to the unit. Sample of drain was collected before and after the unit. Analysis results are presented below:*

Sampling location	***Parameters***					
	pH	***Colour (Hz)***	***SS (mg/L)***	***TDS (mg/L)***	***BOD (mg/L)***	***COD (mg/L)***
Drain sample (before the unit near police chowki)	*7.10*	*125*	*82.8*	*1071*	*84.8*	*162*
Drain sample (after the unit near railway line)	*7.06*	*100*	*48.8*	*803*	*43.6*	*80.4*

21. *The unit has 03 boilers with capacity 2X20 TPH and 1X30 TPH using bagasse as fuel. Emissions from Boiler with capacity 20 TPH is emitted through common stack of height 30 m. Similarly, emission from boiler with 30 TPH is emitted through stack of height 30 m. Monitoring platform in both stacks was not as per CPCB guidelines.*

Recommendations:

1. *The unit should immediately dismantle bypass drain. The unit should ensure that all effluent streams are integrated and routed through ETP.*
2. *The unit should install electromagnetic flow meter in both the borewells and maintain proper log book of fresh water consumption.*
3. *The unit should operate with valid consent under the Water (PCP) Act, 1974 and the Air (PCP) Act, 1981.*
4. *The unit should expedite to obtain NOC from ground water abstraction expired on 27/02/2020.*
5. *The unit should properly operate its ETP. The unit should ensure operation of all units of ETP system. The unit should maintain proper log book for ETP operation.*
6. *The unit should restrict the treated effluent generation as per stipulated norms.*
7. *The unit should properly level launder of Primary and Secondary Clarifier.*
8. *The unit should provide proper stack monitoring facilities as per CPCB guidelines.*
9. *The unit should provide filtrate system in Sludge Drying Beds and ensure that filtrate should be treated in ETP.*
10. *The unit should provide separate energy meter for operation of ETP.*
11. *The unit should ensure to properly operate Sulphur Recovery Plant and maintain proper log book for operation of the plant.*
12. *The unit should provide proper system for conveyance of treated effluent used for irrigation.*
13. *The unit should repair effluent carrying drain to ETP and ensure no overflow of effluent into land/low lying area.*
14. *The unit should regularly calibrate its OCEMS.*
15. *The unit should strictly comply with the new standards notified G.S.R. 35 (E), MoEF & CC, January 14, 2016 for sugar industry such as notified standards for effluent disposal, waste water conservation and pollution control management.***"**

4. From the above, it is seen that apart from other violations, the unit is causing serious water pollution. It has provided bypass drain at the inlet which is a serious offence under the Water Act. The parameters of the effluents are beyond prescribed norms. ETP should be stabilized prior to the commencement of crushing operations. Disposal of effluents into the drain is against consent under the Water Act. Ground water abstraction is illegal. Thus, the stand of the appellant that compensation has been

assessed without any basis cannot be accepted. The appeal has to be dismissed.

5. Apart from the above, we find it necessary to direct the State PCB to take further coercive measures against the appellant unit in the light of the violations found, including closure till compliance, prosecution and compensation for the past continued violations, following due process of law. Assessment of compensation should be based on the law laid down inter-alia in Sterlite (2013) 4 SCC 575, MC Mehta (1987) 1 SCC 395 and Goel Ganga (2018) 18 SCC 257, considering the financial capacity of the unit, nature and extent of violations and deterrent element.

The Appeal is dismissed with above directions.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

March 25, 2022
Appeal No. 23/2020
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