

Item No. 07

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 316/2021

(With report dated 17.05.2022)

Pramod Kumar Sharma

Applicant

Versus

Uttarakhand Environment Protection &
Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 18.05.2022

**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 DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Pramod Kumar Sharma, Applicant in Person

Respondent(s): Mr. Sarda Prasanna Subudhi, Member Secretary & Mr. Subhash Panwar, Regional Officer, Roorkee with Mr. Mukesh Verma, Advocate for UKPCB

ORDER

1. Proceedings in this matter have arisen from the allegation of violation of environmental norms by Respondent No. 04 - Surendra Sharma son of Late Sukhveer Sharma, Owner Surendra Motors, House No. 03, Shubham Vihar near Gurukul Mahavidyalaya By-pass Road, Jwalapur, Haridwar.

2. The Tribunal dealt with the matter vide order dated 23.12.2020 in O.A No. 61/2020, *Pramod Kumar Sharma v. Uttarakhand Environment Protection and Pollution Control Board & Ors.*, and, finding violations,

including absence of requisite consent under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, disposed of the matter after noting the stand of the State PCB that the unit was closed and compensation assessed.

3. Since it was alleged that the violation continued, further order dated 03.12.2021 was passed by the Tribunal directing the State PCB to take remedial action and to file an action taken report. However, the State PCB failed to comply. Even after informing this Tribunal that the unit was closed, the unit continued.

4. The matter was last considered on 13.04.2022. The Tribunal noted that the violations continued but still the order of closure was withdrawn. The Tribunal accordingly directed the Member Secretary, State PCB to remain present and explain such lapse. Operative part of the said order is reproduced below:

“1. There appears to be gross dereliction of duty on the part of the Uttarakhand State PCB in handling this matter, as shown by the record.

2. This Tribunal passed order dated 23.12.2020 in O.A. No. 61/2020, Pramod Kumar Sharma v. Uttarakhand Environment Protection and Pollution Control Board & Ors., based on the report of the State PCB that the unit violating environmental norms namely Surendra Motors, House No. 3, Shubham Vihar near Gurukul Mahavidyalaya By-pass Road, Jwalapur, Haridwar was closed and compensation assessed.

3. Present application was filed alleging that contrary to the information given to this Tribunal, the unit was allowed to continue without ensuring compliance and recovery of compensation, to the detriment of environment, because of collusion with the State PCB.

4. Vide order dated 03.12.2021, this Tribunal asked the State PCB to file a report in the matter. Report filed on 31.01.2022 acknowledges that the unit has continued to function. There is nothing to show that violations were remedied or compensation assessed paid without which there could be no reason to withdraw closure order. It is difficult to understand how it has happened. It is now stated that another notice for closure

dated 18.02.2022 has been given but final action on the said notice is also not known which means that even though violations are continuing, the unit is being illegally allowed to function by the State PCB which is against rule of law and statutory duties of the PCB. There is no justification shown for the situation.

5. In view of above, let the Member Secretary, State PCB remain present by V.C. and explain the circumstances for such lapse on the next date.”

5. In pursuance of above, status report has been filed on 17.05.2022 by the State PCB to the effect that direction has been issued on 29.04.2022 to discontinue power supply of the unit. The District Magistrate has been asked to recover the compensation. Operative part of the report is reproduced below:

“xxxxxx.....xxx

1. That, in continuation of directions dated 18.02.2022 issued by the Uttarakhand Pollution Control Board under section 31(A) of the Water (Prevention and Control of Pollution) Act, 1974 and section-33(A) of the Air (Prevention and Control of Pollution) Act, 1981, the officials of Regional Office, Roorkee (Haridwar) carried out inspection of the Unit and observed that **the occupier of M/S Surendra Motors, Plot No. 3, Shubham Colony, Kankhal, Haridwar has neither complied with directions of the Board nor submitted reply thereof.**

2. That, based on the observations of Regional Office, closure direction under section 31(A) of the Water (Prevention and Control of Pollution) Act, 1974 and section-33(A) of the Air (Prevention and Control of Pollution) Act, 1981 was issued to M/S Surendra Motors, Plot No. 3, Shubham Colony, Kankhal, Haridwar and concerned authority was directed to discontinue power supply of the Unit. Copy of Closure direction issued on 29.04.2022 is enclosed as **Annexure-1.**

3. That, in compliance of direction issued by the Respondent Board, the Uttarakhand Power Corporation Ltd., has disconnected the power supply of M/S Surendra Motors, Plot No. 3, Shubham Colony, Kankhal, Haridwar. Copy of letter issued by the Executive Engineer, Uttarakhand Power Corporation Ltd., Electricity Distribution Division Jwalapur, Haridwar is enclosed as **Annexure-2.**

4. That, the Respondent Board has already requested to the District Magistrate, Haridwar for recovery of Environmental Compensation imposed by the Respondent Board under Land-Revenue process vide this office letter dated 18.02.2022. Copy of

*letter communicated to District Magistrate, Haridwar is enclosed as **Annexure-3.***

6. We have heard the applicant in person and Member Secretary, State PCB present by V.C.

7. The applicant in person states that even though on papers the electricity is said to have been disconnected, the unit is still operating. There is clear collusion of the unit with the concerned officers of the State PCB. The PCB has been misleading this Tribunal with a version that the unit was closed but by collusion allowed it to continue without compliance and payment of compensation earlier assessed. It is only after order dated 13.4.2022, closure is claimed to have been effected.

8. The Member Secretary stated that once use of water was stopped, the unit was compliant and was therefore allowed to continue. Contrary to this stand, the report filed is that the unit is non-compliant and has been closed.

9. We find no reason why the PCB has taken contradictory stands before the Tribunal. First its stand was that the unit was non compliant in absence of consent and was closed and compensation levied. On the ground, it was allowed to continue and even compensation was not recovered. Now it is stated that the electricity has been disconnected and unit closed as it was found non compliant. At the same time, orally it is stated that the unit was compliant and was therefore allowed to continue. In view of irreconcilable stands, we find it difficult to brush aside the allegation of collusion and deliberately misleading the Tribunal. Position of Member Secretary, State PCB is of great trust and it is unfortunate that encumbent of such post should display such conduct. We place on record our disapproval for such conduct.

10. Even though this Tribunal itself can take stringent coercive measures against such unlawful and undesirable conduct of the Member Secretary of the PCB, we consider it appropriate to direct the Chief Secretary, Uttarakhand to look into the conduct of the Member Secretary and take such further action as found appropriate, as per law, so that important posts are manned by people who are above board in dealing with Tribunal. Needless to say that Environmental good governance is need of the citizens.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Uttarakhand by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 18, 2022
Original Application No. 316/2021
DV