

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Appeal No. 19/2021
(I.A. No. 165/2021)

Green Gene Enviro Protection &
Infrastructure Private Limited

Appellant

Versus

Pollution Control Committee, Dadar and
Nagar Haveli, Silvassa.

Respondent

Date of hearing: 09.09.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Appellant: Ms. Anandita Singh, Advocate

ORDER

1. This Appeal has been preferred against order dated 19.07.2021 passed by the Pollution Control Committee, Dadar and Nagar Haveli, Silvassa. We have heard learned counsel for the appellant and perused the record.

2. The operative part of the impugned order is reproduced below:

“WHEREAS M/s Gujarat Gene Enviro Protection and Infrastructure (DNH) Pvt. Ltd. located at Sr. No. 9/1, Village Mota Randha, UT of Dadra & Nagar Haveli was issued Consent to Renewal: To operate Integrated Common Hazardous Waste Treatment, Storage and Disposal Facility” under Water (Prevention and Control of Pollution) Act, 1975 and Air (Prevention and Control of Pollution) Act, 1981 vide order no. PCC/DDD/O-2350/CHWTSDF/05-06/795 dated 17/03/2016 and valid up to 31/08/2020.

AND WHEREAS your unit was issued Authorization for collection, storage, disposal, reception and pre-processing of hazardous & other wastes generated by the industries located in Daman and Dadra & Nagar Haveli at the Integrated Common Hazardous Waste Treatment Storage and Disposal Facility (CHWTDSF) vide no. PCC/DDD/O-2350/CHWTDSF/05-06/212 dated 15/06/2018 and valid up to 31/03/2019 subject to following conditions:

1) Operator of the CHWTDSF is not permitted to collect any type of hazardous and other waste from any State or Union Territory other than UT of Daman & Diu and Dadra Nagar Haveli.

AND WHEREAS, the unit had violated the conditions and brought wastes from other state and used the place as a dumping ground thereby causing severe environmental pollution.

AND WHEREAS, the unit was issued with a notice of direction vide no. 2350/ICHWTDSF/05-06/77 dated 27/08/2019 to submit the Environment Compensation of Rs. 20,93,750/- for gross violations of the provisions under Rule 6 of the Hazardous & Other Waste (Management and Transboundary Movement) Rules, 2010 framed under Environment (Protection) Act, 1986.

AND WHEREAS, the reply furnished by the unit is not satisfactory and the unit representative has agreed to pay the Environment Compensation so imposed.

AND WHEREAS, the unit has not paid the Environment Compensation imposed which is a violation.

NOW THEREFORE, Pollution Control Committee, DD & DNH in exercise to the power conferred under Section-5 of Environment (Protection) Act, 1986 issue a reminder notice to make necessary compliances of points as mentioned in the above said notice of direction.”

3. From the above, it is clear that the appellant is operating a TSDF and as per Conditions of Authorization, the appellant is not permitted to collect any type of hazardous and other waste from any other State or Union Territory than the UT of Daman & Diu and Dadra Nagar Haveli. In violation of the said condition, the appellant brought waste from other States, causing environmental pollution. The appellant was issued notice to pay environmental compensation for violation of Rule 6 of the Hazardous & Other Waste (Management and Transboundary Movement) Rules, 2016 framed under Environment (Protection) Act, 1986 on

27.08.2019. The appellant gave a reply. Violation was not disputed and it agreed to pay the compensation but the same was not paid. Accordingly, the appellant was required to comply with the same by way of impugned direction.

4. Learned counsel for the appellant submitted that there is violation of principles of natural justice as the appellant was not given opportunity of being heard. The impugned order is arbitrary as the waste in question does not fall under Schedule I & II of the 2016 Rules. There was no adverse impact on flora and fauna by the action of the appellant. The impugned order is not a speaking order. No reasons are given for hefty monetary liability. The violation was not deliberate and all anti-pollution measures have been taken by the appellant.

5. We are unable to accept the stand of the appellant. It remains undisputed that the appellant, in violation of Authorization Conditions collected hazardous and other waste from outside the UT of Daman & Diu and Dadra Nagar Haveli. Once such violation was established, the appellant could not claim immunity from consequences of violation on the plea that there is no proof of damage. There is no challenge to the Condition of Authorization prohibiting the appellant from bringing hazardous and other waste from outside. There is no denial of the fact that such waste was actually brought in violation of the condition. There is also no denial of the fact that the appellant had agreed to pay environmental compensation as mentioned in the impugned order. Notice dated 20.05.2019 mentioned the details of waste brought by the appellant in violation of law which are as follows:-

“1) A vehicle (Truck) of Tamil Nadu passing having vehicle No. TN-88-D-7687 was identified at the CHWTSDF.

- 2) You were involved in collection & reception of other wastes such as fly ash, rice husk, coal ash, mustard powder etc. from other Tamil Nadu State without any permission.
- 3) You have received waste in the name of compaction agent through three trucks from M/s Gujarat Enviro-Protection and Infrastructure Limited, Plot No.-S-60, SIPCOT Industrial Estate, Ranipet Phase III Vellore, Tamil Nadu. Details of the received waste and transportation trucks:

<i>Transporter Detail</i>	<i>Waste type & quantity</i>	<i>Date of sending waste</i>	<i>Vehicle No.</i>
<i>Ezlumalaiyan Transport Groups, No. 44/91, AathuKalvaiVakil Street, Ranipet, Tamil Nadu</i>	<i>Compaction Agent-22.510 MT</i>	<i>10/05/2019</i>	<i>TN-28-AR-1784</i>
	<i>Compaction Agent-23.460 Mt</i>	<i>12/05/2019</i>	<i>TN-88-D-7687</i>
	<i>Compaction Agent-22.850 MT</i>	<i>12/05/2019</i>	<i>TN-34-X-9939</i>

6. In its reply dated 23.05.2019 to the notice dated 20.05.2019 bringing of outside waste was not disputed. Rather, plea taken in the reply is that the waste was non-hazardous material causing no danger to the environment. Relevant part of the reply is quoted below:

“4. The materials received as mentioned above are non-hazardous in nature which pose no environmental/human risk at any given point of time. The management of these non-hazardous wastes are not governed through the hazardous waste rules 2016. We have not received any waste on site classified as hazardous as per the hazardous waste rules 2016 and have not violated the rules and guidelines laid down for the management of hazardous waste.”

7. There is thus no violation of principles of natural justice. The appellant was given due opportunity by being confronted with the violation which was never denied. There is no requirement of proving further damage nor of showing that the waste illegally brought should be the one specified in the schedule. The waste brought falls in the definition of ‘hazardous waste’ under the 2016 Rules. There are norms for calculation of compensation laid down by the CPCB. It is not the case of the appellant that the said norms have not been followed in calculating the compensation in the present case.

In view of the above, we do not find any merit in the appeal which is dismissed.

In view of the above order passed in the main appeal, I.A. No. 165/2021 also stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

September 09, 2021
Appeal No. 19/2021
AB