

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

Original Application No. 219/2019

(With report dated 11.11.2019)

Adil Ansari

Applicant(s)

Versus

State of U.P. & Ors.

Respondent(s)

Date of hearing: 13.11.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s): Ms. Preeti Singh, Advocate

For Respondent(s): Mr. Pradeep Misra, Advocate for UPPCB

ORDER

1. The issue for consideration is the remedial action against illegal drawal of ground water and illegal discharge of effluents in Ganges and its tributaries by Genus Paper and Board, Agwanpur, District Muradabad, U.P. Grievance is also against emissions of gases in the environment and illegal expansion of the unit.
2. After considering the report furnished by the joint Committee representing CPCB, UPPCB and CGWB indicating violation of law in illegally extracting ground water and discharging polluted effluents and illegal discharge of hazardous waste, vide order dated 09.08.2019, this Tribunal directed acceptance of the recommendations and taking of follow up action by the

State PCB for compliance as well as for recovery of compensation for illegal expansion and illegal drawal of ground water and also disposal of hazardous waste in violation of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (Hazardous Waste Rules, 2016). CGWB was also directed to monitor compliance of conditions particularly the condition with regard to recharge of ground water and file an affidavit about the mechanism for such compliance.

3. No affidavit has been filed by CGWB but a report has been filed by State PCB to the effect that environmental compensation has been assessed for unauthorized expanded capacity, extraction of ground water and violation of Hazardous Waste Rules, 2016 as follows:-

“Default due to operation of the plant at a capacity more than the production capacity allowed in Consent to Operate under the provisions of Water (Prevention and Control of Pollution), Act, 1974.

The unit operated at a capacity more than the production capacity allowed in Consent to Operate for a period of 16 months during last 02 years as verified through the records of GST Department (Trade Tax Department). Thus the unit violated the conditions of Consent to Operate for a period of 16 months. UPPCB imposed Environmental Compensation based upon CPCB methodology "Levying of Environmental Compensation against defaulting industries as below:-

$$EC = PI \times N \times R \times S \times LF$$

PI=80 (Red Category Industry)

N= 485 Days

R= 250

S=1.5 (Large Unit)

LF= 1

EC=Rs. 1,45,50,000/- (Rs.One Crore Forty Five Lakh Fifty Thousand only)

Default due to abstraction of Ground Water without obtaining permission

Unit was issued NOC by Central Ground Water Authority, Ministry of Water Resources, River Development & Ganga Rejuvenation for abstraction of Ground Water 1450 cubic meter/day valid till 24-05-2019. After the validity period, unit has abstracted the Ground Water without permission. UPPCB imposed Environmental Compensation on M/s Genus Paper Products Ltd. Kanth Road, Agwanpur, Moradabad for Ground Water abstraction without permission based upon CPCB methodology "Environmental Compensation in case of legal extraction of Ground Water "as below:

$EC_{GW} = \text{Water Consumption per Day} \times \text{No. of Days} \times \text{Environmental Compensation Rate for illegal extraction of ground water (ECR}_{GW})$

Water Consumption per Day = 1450 cubic meter

No. of Days = 166

Environmental Compensation Rate for illegal extraction of ground water (ECR_{GW}) = Rs. 40/cubic meter

Total EC = 96,28,000/- (Rs. Ninty Six Lakh Twenty Eight Thousand only)

Default due to violation of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016

Unit has not taken authorization for disposal of Hazardous Waste under the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. UPPCB imposed Environmental Compensation on M/s Genus Paper Products Ltd. Kanth Road, Agwanpur, Moradabad for violation of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 based upon CPCB methodology for a period of 05 years but considering the fact that Environmental Compensation imposed for 16 months as above also includes default related to Hazardous Waste disposal, hence the EC has been imposed for rest 44 months as below:

$EC=Q \times ERF \times R$

Q=22 Ton i-rw in 44 Months

*R= Rs. 30000
ERF=1.5
EC=Rs. 9,90,000/- (Rs. Nine Lakh Ninety
Thousand only).”*

4. Learned counsel for the State PCB states that out of the two water borewells, there was a permission for one of the borewell from CGWA which has expired but the water was still being illegally drawn only on the ground that application for renewal was pending.

5. Since it has been repeatedly laid down that mere filing of an application cannot be treated as a permission, the State PCB must ensure that extraction of ground water is forthwith stopped. Action may also be taken for compliance of Hazardous Waste Rules, 2016 and other environmental norms in accordance with law.

The application is disposed of.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

Saibal Dasgupta, EM

November 13, 2019
Original Application No. 219/2019
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