

Item No. 2

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 112/2023  
(I.A. No. 58/2023)

Urban Forest Forum

...Applicant

Versus

Central Pollution Control Board & Ors.

...Respondents

Date of hearing: 27.02.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Mr. M.P. Sahay, Advocate (through VC).

Respondents: Ms. Priya Puri and Ms. Tanvi Nigam, Advocates for  
respondent no. 6-IOC.

**Application under Section 14 read with Section 18 of the National  
Green Tribunal Act, 2010.**

**ORDER**

1. The applicant, claiming itself to be an NGO based in Western U.P., has filed the present application under Section 14 read with Section 18 of the National Green Tribunal Act, 2010 complaining that respondent no. 4- Mahendera Ji Motors Petrol Pump is being run adjacent to respondent no. 5- SCM Public School within the distance of 50 meters in violation of the CPCB guidelines dated 07.01.2020 and that high tension electricity wires are passing and electricity transformers are placed right at the corner of the petrol pump. The applicant NGO has sought the reliefs of stoppage of the operation of the petrol pump and imposition of environmental damage compensation.

2. Alongwith the original application, the applicant has filed interim application no. 58/2023 for condonation of delay in refiling of the application. In view of the attendant facts and circumstances the interim application no. 58/2023 is allowed.

3. We have heard learned Counsel for the applicant and gone through the relevant record.

4. In view of the observations made by the Hon'ble Supreme Court of India in its order dated 21.10.2022 passed in **Civil Appeal Nos. 2407-2412 of 2021 titled the State of Uttar Pradesh and others Vs. Uday Education and Welfare Trust and another** requiring this Tribunal to test the credentials and bonafides of applicants filing public interest litigation applications, we questioned learned Counsel for the applicant about credentials and bonafides of the applicant but learned Counsel for the applicant could not furnish the relevant information regarding the applicant NGO, its Membership, its activities etc. and other related aspects. Learned Counsel for the applicant could not even answer the questions as to whether any of the Members of the applicant NGO is resident of Hapur or whether any of the parents of the students studying in the School is Member of the applicant NGO. We are not, therefore, satisfied about the credentials and bonafides of the applicant NGO and we are not inclined to take cognizance of the present civil case on the basis of the present application.

5. Even otherwise, in the present case the applicant NGO is relying on siting criteria of retail outlets laid down in CPCB guidelines dated 07.01.2020, which reads as under:-

**“H. Siting criteria of Retail Outlets:**

*In case of siting criteria for petrol pumps new Retail Outlets shall not be located within a radial distance of 50 meters (from fill point/ dispensing units/ vent pipe whichever is nearest) from schools, hospitals (10 beds and above) and residential areas designated as per local laws. In case of constraints in providing 50 meters distance, the retail outlet shall implement additional safety measures as prescribed by PESO. In no case the distance between new retail outlet from schools, hospitals (10 beds and above) and residential area designated as per local laws shall be less than 30 meters No high tension line shall pass over the retail outlet*

*These guide/Ines are supplementary to all existing relevant Rules. Guidelines. Orders etc.”*

6. Clarification with regard to cut-off date for applicability of siting criteria referred in Guidelines for Setting Up of New Petrol Pumps dated 07.01.2020 was issued by the CPCB vide O.M. dated 29.01.2021 the relevant part of which reads as under:-

*“ In this regard, it is clarified that the siting criteria for new Retail Outlets is to be complied with in cases where construction of Retail Outlets by Oil Marketing Companies commenced on or after 07.01.2020. In other words, the siting criteria will not apply to those cases where PESO prior clearance/ initial approval has been obtained and subsequently construction has been started by the OMC before 07.01.2020.”*

7. On being asked the learned Counsel for the applicant could not also answer the questions as to when the petrol pump and the School were respectively established and in the absence of the pleadings and documentary evidence as to the respondent no. 4- Mahendera Ji Motors Petrol Pump in question having been established after issuance of CPCB guidelines dated 07.01.2020 no order for stoppage of its operation or imposition of environmental compensation on the same can be passed for violation thereof.

8. It may be observed here that pursuant to service of advance copy Ms. Priya Puri and Ms. Tanvi Nigam, Advocates have appeared for

respondent no.6-IOC and have filed copy of email dated 30.01.2023 sent by Mr. Yatin Bhushan, Manager (Law)/UPSO-II to her alongwith trail email sent by Mr. Pankaj Bhatia, CM (RS), IOCL, Noida DO. In the above said email it has been mentioned that the retail outlet- M/s Mahendera Ji Motors was established/commissioned on 31.07.2004 and that as per feedback the referred SCM Public School was established during 2007. Since, the retail outlet M/s Mahendera Ji Motors Petrol Pump was established/commissioned on 31.07.2004 and SCM Public School was established during 2007, CPCB Guidelines dated 07.01.2020 is not applicable to the retail outlet.

9. In view of the above, the original application is dismissed.

10. However, in view of location of the petrol pump and the school adjacent to each other, the District Magistrate, Hapur is directed to arrange to get an audit conducted regarding the safety measures, in compliance with the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 with reference to on and off-site management plans, and equipment's including Vapor Recovery System (VRS) installed/ provided in the retail outlet M/s Mahendera Ji Motors Petrol Pump and to take appropriate remedial action if any required on the basis thereof within one month from the date of receipt of a copy of this order and send a copy of his report within one month thereafter by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF, before the Ld. Registrar General, National Green Tribunal, Principal Bench, New Delhi who may, if necessary, put up the matter before this Bench for further directions.

11. A copy of this order be sent to the District Magistrate, Hapur by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 27 2023  
AG