

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

Execution Application No. 11/2017

In

Original Application No. 159 of 2013

(M.A. No. 1169/2018)

And

Original Application No. 77 of 2016

IN THE MATTER OF :-

All India Lokadhikar Sangathan Vs. Govt. of NCT of Delhi & Ors.

And

M/s. Ashok Vihar Mitra Mandel

Vs.

The Govt. of NCT of Delhi & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

Execution Application No. 11/2017

Present:

Applicant:

Respondents:

Khanna, Adv.

None appeared

Mr. Tarunvir Singh Khehar, Mr. Sandeep Mishra, Adv.

Ms. SM Ali, Special Secy.

Mr. Krishna Kumar Singh, Adv.

Mr. Sanjeev Ralli, Mr. Dinesh Jindal and Ms. Nitika

**Mr. Vinayak Gupta, Adv. with Mr. Arun Mishra
Executive Director**

Original Application No. 77 of 2016

Present:

Applicant:

Respondents:

Khanna, Adv.

None appeared

Mr. Tarunvir Singh Khehar, Mr. Sandeep Mishra, Adv.

Mr. Vivek Kumar Tandon, Adv.

Mr. Vinayak Gupta, Adv. with Mr. Arun Mishra

Executive Director

Mr. Rajkumar, Adv.

Mr. Sanjeev Ralli, Mr. Dinesh Jindal and Ms. Nitika

Ms. Puja Kalra and Mr. Virender Singh, Adv.

Ms. Sunita Bhardwaj, Adv. for MOEF

Date and Remarks	Orders of the Tribunal
Item Nos. 02 & 03 October 16, 2018 A	1. The original application was filed with a prayer for direction to close all hazardous industries functioning in Delhi, including stainless steel pickling industries. According to the application, stainless steel pickling industries were covered in prohibited/negative list of the industry as per Master Plan of Delhi 2021. The Hon'ble Supreme Court vide the order dated 07.05.2004 in the matter of M.C. Mehta Vs. Union of India & Ors. ¹

¹ WP (C) No. 4677 of 1985, (2004) 6 SCC 588

	<p>Item Nos. 02 & 03</p> <p>October 16, 2018 A</p>	<p>prohibited such industries. They were found to be contributing waste into river Yamuna, including untreated sewage. Such industries were also responsible for highly polluting the water by discharging acidic effluents.</p> <p>2. The DPCC, vide letter dated 22.03.2012, addressed to the Deputy Commissioner (North-West), in purported compliance of the judgement of the Hon'ble Supreme Court, directed effective closure of the said industries.</p> <p>3. The industries approached the Delhi High Court by way of Writ Petition, being Apex Chamber of Commerce and Industry Vs. Delhi Development Authority & Ors.² challenging Entry 88 of the negative list under the Master Plan of Delhi - 2021 and also the order of the DPCC for effective closure of the said industries. The same was quashed on account of some procedural infirmity.</p> <p>4. After complying with the procedure laid down under the Delhi Development Act, as interpreted by the Delhi High Court, a further decision was taken to place the said industry in the prohibited/negative list.</p> <p>5. Another writ petition was filed in Delhi High Court and vide the order dated 11.11.2013 in WP (C) No. 6904/2013, it was held that the prohibition has become operative from 23.09.2013, in view of the notification amending the Master Plan 2021, re-introducing stainless steel pickling industries in the list of prohibited/negative industries. However, it was observed that application for consent which was pending before the DPCC should be decided but the industries could not resume their</p>
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² W.P. (C) No. 6904/2013

	<p>Item Nos. 02 & 03</p> <p>October 16, 2018 A</p>	<p>activities without consent of DPCC in accordance with law. The Delhi High Court also noticed order of the National Green Tribunal dated 21.08.2013, to the effect that the said industries were highly polluting industries having effect on water/water bodies, drains and said industries could not be allowed to continue without consent of the DPCC under the statutory provisions. The units, however, continued to function illegally.</p> <p>6. On 17.10.2014, the original application was taken up for consideration by this Tribunal. The Tribunal noted the stand of the DPCC that it was taking appropriate action in the matter and that the DPCC shall not grant permission to any of the units which are discharging untreated effluents directly or indirectly in the river Yamuna and not following with the Hazardous Waste Management Rules. Still, the units continued illegally with obvious continuance of authorities of Delhi Government.</p> <p>7. Thereafter, an Execution Application No. 33/2016 was filed before this Tribunal for enforcement of order dated 17.10.2014, which was disposed of on 13.12.2016, after noting the stand of the DPCC that after consulting the representatives of the Department of Industries and Environment, GNCTD, DDA and CPCB, a policy decision has been taken that pickling industries are impressible and all are under the prohibited category. Further, it was submitted by DPCC that consent granted to the industries had expired and no further consent to operate has been granted. A statement made on behalf of the NCT of Delhi and DPCC was that action in accordance with law will be</p>
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	<p>Item Nos. 02 & 03</p> <p>October 16, 2018 A</p>	<p>taken against the industries without any undue delay. The application was disposed of in terms of the said statement. The said undertaking has not been complied.</p> <p>8. Thereafter, present Execution Application was filed on 16.02.2017 alleging that inspite of the categorical statement made before this Tribunal and orders of this Tribunal, the industries were illegally continuing and they were also enjoying electricity and water supply connection. The industries continue to discharge untreated effluents in the river. The Delhi Government and DPCC were violating the statement made before this Tribunal.</p> <p>9. The matter has remained pending for the last more one year. The Tribunal recorded on 25.07.2017 that the order of the Tribunal had not been implemented. The DPCC were required to file an affidavit as to why the order has not been complied, what directions have been issued and whether the directions have been issued under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 for closure of the industries and for disconnection of the electricity.</p> <p>10. On 14.12.2017, the Secretary Environment and Secretary Industries, Government of Delhi were directed to ascertain the status of pickling industrial activity. It was made clear that failure to comply with the directions of this Tribunal will compel it to resort to coercive measures, including closure of pickling industries.</p> <p>11. Again on 08.01.2018, it was noted that there was a consensus amongst the Secretaries of the Delhi</p>
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	<p>Item Nos. 02 & 03</p> <p>October 16, 2018 A</p>	<p>Government that the pickling industries were in negative list and could not function in Delhi after three years from 28.09.2013. It was observed that the Delhi Government will hopefully take action in accordance with law. On 20.02.2018, this Tribunal noted that the undertaking given to this Tribunal by the NCT of Delhi has not been complied with.</p> <p>12. On 21.02.2018, statement was made that DPCC and DSIIDC held a meeting of joint inspection of three sites at Wazirpur, SNA and Badli. It was also noted that the industries could not be allowed to work after 3 years from 28.09.2013 and action has to be taken expeditiously. The stand of the Delhi Government that it could not take action without inspection by the Department of Industries and DPCC was rejected and it was observed that the NCT of Delhi could have taken independent action against the pickling industries.</p> <p>13. We have heard the learned counsel for the parties.</p> <p>14. We may also note that vide order dated 31.07.2018, directions were issued that the Principal Secretary Industries, GNCTD who is also the Managing Director of DSIIDC and Secretary Environment, GNCTD should remain present in person with the affidavit of compliance. Still, they have failed to remain present without any reason being furnished. Only statement made is that on 02.08.2018, both the said two officers were present. We do not find any reason why they are not present today. Special Secretary Environment and Special Secretary Industries are present but their presence is of no value as</p>
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	<p>Item Nos. 02 & 03</p> <p>October 16, 2018 A</p>	<p>they have no explanation to offer for the lawlessness being permitted by them in permitting the industries illegally. It is undisputed that after 23.09.2016 the industries do not have any consent to operate or continue to operate either under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 which itself is criminal offence. Violation of law is continuing openly brazenly and despite repeated findings by this Tribunal as well as assurances and undertakings which do not appear to be intended. The authorities have assumed that nothing can happen if they continue to defy the law to benefit polluting industries at the cost of public health. As noted by the Hon'ble Supreme Court in M.C. Mehta, supra, para 36 that the industry is category 'F' and not permitted by the Master Plan. In (2018) 2 SCC 144, the Hon'ble Supreme Court has reiterated that illegal industrial activities must be stopped.</p> <p>15. Needless to say, permitting polluting industries in violation of law cannot be tolerated and has to be strongly dealt. We have noticed repeated failure of Delhi Government in handling the environment issues and continuing violation of orders of this Tribunal dated 20th July, 2018 in O.A. No. 56^(THC) of 2013 Satish Kumar Vs. Union of India, 02nd August, 2018 in O.A. No. 505 of 2018 Kulwant Singh Vs. Govt. of NCT & Ors. and 04th October, 2018 in O.A. No. 435 of 2016 N.S. Yadav & Ors. Vs. Commissioner, North MCD & Ors.</p> <p>16. The metals used in pickling industries produce corrosive wastes and effluent discharge from these industries contains toxic wastes which are harmful to</p>
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	<p>Item Nos. 02 & 03</p> <p>October 16, 2018 A</p>	<p>health and aquatic life. The dangerous corrosive chemicals have the ability to cause grave skin injuries and breathing difficulties. These wastes adversely affect the human nervous system causing serious ailments and dangerous diseases. In this light, the inaction of the authorities has not only deteriorated and degraded the environment but has also severely affected human and aquatic life.</p> <p>17. Untreated effluent discharge directly or indirectly in the river has caused serious damage to the environment and the Polluter Pays Principle needs to be invoked to compensate the damage caused in terms of Section 20 of the NGT Act, 2010.</p> <p>18. Accordingly, we direct the Delhi Government to forthwith stop operation of the industries and initiate action for violation of law. We also direct the Chief Secretary, Delhi to constitute a three Member team to identify persons responsible who may be liable to be prosecuted and punished for violation of law. A report of the action taken may be furnished to this Tribunal by e-mail at filing.ngt@gmail.com within four months.</p> <p>19. We also impose cost of Rs. 50 crores on the Delhi Government for its inaction and failure resulting in creating lawlessness and also damaging the environment and the public health. It will be open to the Delhi Government to recover the said amount from the erring industries and/or from the erring officers.</p> <p>20. The amount be deposited with the CPCB within one month from today. CPCB may spend the same for improvement of environment in the area in question by</p>
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	<p>Item Nos. 02 & 03</p> <p>October 16, 2018 A</p>	<p>preparing an appropriate scheme with the approval of the Chairman, CPCB.</p> <p>List again on 25.03.2019 to consider the report of compliance and further action.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>....., JM (Raghuvendra S. Rathore)</p> <p>....., EM (Dr. Satyawan Singh Garbyal)</p> <p>16.10.2018</p>
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