

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

Appeal No. 2/2014

IN THE MATTER OF : -

Vijay Singh Vs. Balaji Grit Udyog (Unit-I & Unit-II) & Ors.

**CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. DR. P.C. MISHRA, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

**Adv. For Applicants : Mr. Manoj Swarup & Mr. Utsav Sidhu,
Advocates.**

Advocate for Res. : None.

Date and Remarks	Orders of the Tribunal
Item No. 1 January 29, 2014	<p>We have heard learned counsel appearing for the Appellant. This appeal is preferred against the order of the Appellate Authority under Water(Prevention & Control of Pollution) Act, 1974 and Air(Prevention & Control of Pollution) Act, 1981 by which the Appellate Authority has set-aside the order dated 31st March, 2013 of the Haryana State Pollution Control Board wherein the Pollution Control Board has refused to grant consent to operate to the First Respondent's unit on the ground that the siting parameters have not been complied with as per the report dated 18th March, 2013 given by the Executive Engineer/Public Health and Tehsildar, Pataudi.</p> <p>The First Respondent is admittedly a unit carrying on the stone crushing operation on the basis of NOC (consent to establish) stated to have been obtained in the year 2002 for Unit –I and in 2009 for Unit-II. Admittedly there was no application for consent to operate at that time. There appears to have been some orders passed by the P.C.B. against the unit for violation against which the unit approached the Hon'ble High Court of Punjab & Haryana twice. At one stage, it appears that the writ petition filed by the First Respondent was withdrawn and in another case as against the order passed, a Special Leave Petition</p>

was filed before the Hon'ble Supreme Court and ultimately the Special Leave Petition came to be dismissed on 9th November, 2010. It appears that in 2009 the First Respondent has filed an application for consent to establish which was granted subject to various conditions by the Haryana State Pollution Control Board. However, those conditions were not fulfilled. In these circumstances, on the complaint given by the villagers through the Appellant, there was an inspection carried out by the Pollution Control Board and from the Inspection Report dated 18th March, 2013 especially, Item No. 7 and 11 it is very clear that there is violation of siting criteria in respect of the water supply as well as the distance from the village. As per the norms prescribed by the Government of Haryana minimum 1 and 1.5 kilometres distance, respectively in respect of each of these cases must be maintained. However on a reference made to the report, it is found that the distance is far less than the minimum requirement contemplated as per the Government Notification. It was in those circumstances the Pollution Control Board passed the above-said order refusing to grant consent to operate. It was as against that, the First Respondent filed the appeal before the Appellate Authority and that appeal came to be allowed by setting aside order of the Pollution Control Board and that is being challenged before this Tribunal.

The learned counsel for the Applicant would submit that the Appellate Authority has not applied its mind to the statutory report of the Pollution Control Board. On the other hand the Appellate Authority has disbelieved the report of the Pollution Control Board merely on the ground that the same has been done in the presence of Patwari but relied upon the private report produced by the First Respondent. While it is true that the Patwari may not be an appropriate person for the purpose of measuring aerial distance, even in respect of the water criteria, the distance is far less than the required minimum standard as prescribed by the State Government. That aspect has not been

considered by the Appellate Authority.

Therefore, we are of the view that the Appellant has made out a prima facie case for admitting this appeal. Accordingly, the appeal stands admitted.

Taking note of the fact that the NOC granted to the First Respondent in the year 2002 has lapsed as on date, the First Respondent is operating without having consent to operate and also taking note of the allegations made that the environmental problems are caused by the unit, we hereby stay the operation of the Appellate Authority's order for a period of four weeks.

Consequently, we make it clear that the First Respondent shall not operate its unit till the next date of hearing.

Issue notice to the Respondent's by Dasti process and Registered Post returnable on 26th February, 2014.

....., JM
(Dr. P. Jyothimani)

....., JM
(M.S. Nambiar)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. Dr. P.C. Mishra)

....., EM
(Prof. A.R. Yousuf)

