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ENVIRONMENTAL MANAGEMENT BUREAU
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Republic of the Philippines
Department of Environment and Natural Resources
POLLUTION ADJUDICATION BOARD
DENR Compound, EMB Building, Visayas Avenue
Diliman, Quezon City

**IN THE MATTER OF
THE WATER POLLUTION
CONTROL AND
ABATEMENT CASE**

**DENR-PAB Case No.
08-000052-21-W**

-versus-

FOR: Violation of
**Paragraph (c),
Section 27,
R.A No. 9275**

ST. SCHOLASTICA'S HOSPITAL, INCORPORATED

Sitio Cawayan, Cababto-an, Pambujan, Northern Samar

Respondent

X- - - - -X

ORDER

For consideration before the Board is the water pollution case of respondent docketed as DENR-PAB Case No. **08-000052-21-W**.

Facts

Records of the case reveal that on **11 May 2021**, technical personnel from the Clearance and Permitting Division of the EMB Regional Office No. VIII conducted a desk review upon herein respondent's application for the renewal of its Wastewater Discharge Permit filed last **06 May 2021**. In the said desk review, it was alleged that the respondent is operating a facility that discharges regulated water pollutants without the required discharge permit since **11 May 2020**, for its previous permit expired a day prior. Hence, a Notice of Violation dated **25 May 2021** was issued stating the violation.

Pursuant to **Pollution Adjudication Board Resolution No. 02, Series of 2020** or the **Interim Guidelines of the Pollution Adjudication Board during the Public Health Emergency due to COVID-19**, in lieu of a technical conference/hearing, the respondent was directed to submit a position paper fifteen (15) days from receipt of the NOV. Several issues hampered the service of the NOV to the respondent.

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On **03 December 2021**, the respondent submitted a position paper under which it reasoned the travel restrictions and other factors affecting its operations for its failure to renew the permit prior to its expiration last **10 May 2020**. According to the respondent, sending of the wastewater sample is very hard because flights to Cebu had been cancelled and there are no available laboratories in its area.

Upon a careful review of the inspection report, the respondent's explanation, and such all other records and evidence of this case, the Hearing Officer submitted the case for the Order of the Board and is of the opinion that the respondent is liable, there being lawful grounds to affirm the violation and that there is no merit from respondent's explanation.

RULING

The Board, in turn, thru this Office, finds no cogent reason or legal justification to deviate from the opinion and recommendations of the Hearing Officer. The said opinion and recommendations are hereby adopted in the ruling of this case.

Section 14 of DENR Administrative Order No. 2005-10¹ provides, in part, for the following:

"Discharge Permits. - The Department shall require owners or operators of facilities that discharge regulated effluents pursuant to this Act to secure a permit to discharge. The discharge permit shall be the legal authorization granted by the Department to discharge wastewater: Provided, that the discharge permit shall specify among others, the quantity and quality of effluent that said facilities are allowed to discharge into a particular water body, compliance schedule and monitoring requirement."

In addition, **Paragraph (c), Section 27 of R.A 9275** prohibits the act of:

"xxx

(c) Operating facilities that discharge regulated water pollutants without the valid required permits or after the permit was revoked for any violation of any condition therein;

xxx"

Based on the above-quoted prohibition, there are two (2) elements or acts which must concur in order to establish the liability of the violator. The following are the elements/acts:

¹ Implementing Rules and Regulations of the Philippine Clean Water Act of 2004, R.A 9275

- (1) Operating a facility that discharges regulated water pollutants.
- (2) Without a valid wastewater discharge permit or after the permit was revoked for any violation of any condition therein.

Here, both elements are present and there is no showing to the contrary. The admission implied from the respondent's explanation is likewise sufficient to affirm its liability.

While it was understandable that the pandemic has brought restrictions to travel which could have played a role in the respondent's failure to secure a renewal before the permit expired last **10 May 2020**, the respondent still appears to have slept on its obligation to renew the permit since it only filed the renewal application on **06 May 2021** or more than a year later. The respondent also failed to exert effort to officially communicate the matter to this Office so that perhaps it could have secured an acknowledgment from this Office at that time and make use of the same so it may be excused from liability.

Unfortunately for the respondent, the hard reality is that existing policies are wanting of any provisions granting exemptions to permittees in view of the pandemic. Thus, this Office is constrained to enforce the requirements of the law, notwithstanding the circumstances mentioned by the respondent.

As it is evident from the records that at the time the inspection was conducted, the respondent had no valid Discharge Permit, it violated **Paragraph (c), Section 27 of R.A 9275**.

Under **Section 28 of R.A 9275**, such violation may be fined in the amount of **not less than Ten Thousand Pesos (Php 10, 000.00) but not more than Two Hundred Thousand Pesos (Php 200,000.00) per day of violation**, which shall be determined by the **DENR- Pollution Adjudication Board (PAB)** and imposed by the DENR Secretary, pursuant to **Section 28 of R.A 9275** or the **Philippine Clean Water Act of 2004**.

Under PAB Resolution No. 01, Series of 2019, for permitting violations of the Clean Water Act (R.A 9275), and considering that an establishment is required to pay a discharge permit fee annually, a fine of **Nineteen Thousand Five Hundred Pesos (Php 19, 500.00)** shall be imposed for **every year of violation**.

WHEREFORE, after due deliberation, the Board hereby finds the respondent liable to the violation. Accordingly, the respondent is hereby ordered to pay the fine of **NINETEEN THOUSAND FIVE HUNDRED PESOS (Php 19, 500.00)**, equivalent to a 1-year violation pursuant to PAB Resolution No. 01-2019, reckoned from the date of the expiration of the permit or last **10 May 2020** until the time of the desk review or last **11 May 2021**.

Respondent is directed to pay at the Environmental Management Bureau located at DENR Compound, EMB Building, Jones St. Brgy. 02, Tacloban City, Philippines, within a period of **THIRTY (30) DAYS** from receipt hereof. In addition, the respondent is hereby directed to secure a Temporary Wastewater Discharge Permit. Pending issuance of the same, the respondent is expected to **CEASE AND DESIST** from discharging wastewater.

The Legal Officer or his duly authorized representative is directed to serve this Order within seventy-two (72) hours from receipt hereof.

SO ORDERED. Tacloban City, Philippines. JAN 31 2022.

By authority of the Secretary:


ENGR. REYNALDO B. BARRA
OIC- Regional Director