

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 123/2018
(M.A. Nos. 941/2018, 963/2018, 964/2018, 965/2018, 966/2018,
967/2018, 968/2018, 969/2018, 970/2018, 991/2018,
992/2018, 1298/2018 & 1301/2018)

Sidhgarbyang Kalyan Sewa Samiti, Sitargang,
District – Udham Singh Nagar

Applicant(s)

Versus

State of Uttarakhand & Ors.

Respondent(s)

Date of hearing: 13.11.2018

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

Amicus Curiae:

Mr. Raj Panjwani, Senior Advocate with
Meera Gopal, Advocate

For Respondent (s):

Mr. Sanjay Upadhyay, Mr. P. Pandey, Ms.
Upama Bhattacharjee, Advocates
Mr. Rahul Verma, AAG for State of
Uttarakhand & Sidcul Corporation
Mr. Rajiv Sharma, Mr. Rahul Roy, Abhishek,
Shafiq Ahmed, Advocates
Mr. Rahul Khurana, Advocate
Mr. Rajkumar, Advocate for CPCB
Mr. Mukesh Verma, Advocate for UEPCB
Mr. R. Jawahar Lal, Advocate
Mr. Sumeer Sodhi, Mr. Rajun Nanda,
Advocates
Mr. N. Bandyopadhyay, Rahul Pandey,
Advocates for CETP and Mr. Bharat
Bhusan, A.R. of CETP
Mr. Alok K. Agarwal, Ms. Petal Chandhiok,
Advocates

ORDER

1. Proceedings in this matter have been initiated on the basis of a letter received from Sidhgarbyang Kalyan Sewa Samiti, Post – S.A.I., Camp, Lalarkhas, Shisham Bag, Kalyanpur, Tehsil – Sitargang, District – Udham Singh Nagar,

Uttarakhand dated 19.02.2018. However, in the cause title the applicant is shown as Tribunal on its own motion which should be corrected as the applicant in the letter. Necessary correction is carried out.

2. The Tribunal appointed Shri Raj Panjwani, Senior Advocate as Amicus Curiae. Learned Amicus Curiae has accordingly rendered commendable service in assisting this Tribunal for which the Tribunal records appreciation.
3. Allegations in the letter are that number of industries have been established by ELDECO (SIDCUL). The ELDECO is said to be a construction company. SIDCUL is State Industrial Development Corporation of Uttarakhand Limited. The industries are set up in the industrial park on the boundary of the village where about 100 industries have been set up. According to the letter, the industries are creating pollution thereby depositing black dust on the residential houses upto to distance of 150-200 meters. People cannot sit and have food on account of dust pollution. There is a foul smell in the village. The STP/CETP are not functional, untreated chemical and hazardous effluents are discharged in open drains, polluted water is affecting the land, the villagers suffer in eyes and skin in taking bath in the polluted water, toxic effluents affect the vegetables. The letter also name some of the industries i.e. Gujrat Ambuja Export Ltd., SSP Private Ltd., Agmeco Faucets Private Ltd., Packaging India Private Limited, JIITF ESPIL CETP (Sitarganj) Ltd., Power Transmission Corporation of UK Ltd., Tara Health Foods Ltd., Moraceae Pharmaceuticals (P) Ltd. and Kamla Plastomet. Sample of air quality was taken by the State Pollution Control Board Officers and the area was visited but no action was taken.

4. The matter has been considered on several dates by this Tribunal. A brief reference to the proceedings is necessary.
5. On 12.03.2018, the Uttarakhand State Pollution Control Board (State PCB) was directed to conduct inspection to identify the industries discharging untreated effluents, air and ground water pollution for violating condition of Environmental Clearance to examine the extent of damage to the soil etc.
6. On 18.05.2018, the CPCB was directed to inspect the industries which are said to be polluting and on such verification, SIDCUL and State PCB was to take legal action of stopping the functioning of the industries.
7. On 31.05.2018, 7 industries mentioned in the said order were directed to be shut down, after considering the report of the CPCB to the effect that the same were causing pollution. It was also directed that standards of PETPs should be notified by State PCB.
8. Some of the industries which were closed down preferred appeals in the Hon'ble Supreme Court Civil Appeal no. 5854 of 2018, filed by Henkel Adhesive Technologies India Pvt. Ltd., is said to be pending, staying operation of the interim order dated 31.05.2018, qua the said party. Civil Appeal no. 5837 of 2018 filed Reckitt Benckiser India Pvt. Ltd. was allowed on 14.06.2018, on the ground that the said party did not have the opportunity to be heard. It was made clear that the Hon'ble Supreme Court had not expressed any opinion on merits. Order dated 31.05.2018 was challenged before Uttarakhand High Court also and the matter was disposed of on 12.06.2018, staying operation of the order dated 31.05.2018, till reopening of the National Green Tribunal after summer vacation.

9. Learned counsel submit that whatever be the fate of the challenge to the interim order passed by the Tribunal in pending proceedings in appeal, there is no bar to final order being passed, after hearing the parties.
10. Accordingly, we have heard the learned Amicus Curiae as well as learned counsel for CPCB, State PCB, State of Uttarakhand, SIDCUL (Sitarganj), CETP and the industries including the applicants who have sought to be impleaded.
11. Question for consideration is whether there is material to show violation of environmental norms and any remedial action is required for complying with the statutory mandate under the Environment (Protection) Act, 1986, Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974.
12. Learned Amicus Curiae submitted that the report furnished by the CPCB filed before this Tribunal on 15.06.2018 should be acted upon. Report shows that inspection was carried out during May 16-20, 2018 and May 22-25, 2018. Inspection team comprised of Scientists and other functionaries 11 in number. The inspection team visited 90 industries, out of which 20 had potential of trade effluent generation. The observations and recommendations of inspecting team are that State PCB had not notified the inlet standards for CETP. Out of 19 wet industries, treated waste water from 12 Units was found exceeding the mutually agreed limits (between industry and CETP). One of the units M/s Jainsons Engineering Pvt. Ltd. was not connected to CETP and was discharging untreated effluents in open drains. In respect of many industries validity of consent and authorization had expired, though their applications for renewal were pending. NOC from CGWA had not been

taken. There was lack of communication and coordination between CETPs and the industries. Flow meters were required to be installed. Quality of treated effluent was not complying with the standards which show deficiencies in functioning of the CETPs. The CETP was required to ensure that there is no over flow and should have an irrigation plan. The CETP was working without valid CCA which was required to arrange recycling and reuse of treated effluents to achieve Zero Liquid Discharge (ZLD). Untreated waste water was required to be properly collected and treated. There was a grievance of waste water mixing up with the canal. Soil quality was required to be assessed by the Department of Agriculture. The CETP was not complying with the conditions of maintaining ZLD and to treat the water for irrigation.

13. Learned counsel for the CETP as well as the industries have submitted that after the report of the CPCB, standards have been laid down for CETPs for Sitarganj and Pant Nagar areas by the State PCB on 14.06.2018. In view of the said standards, a fresh inspection was necessary. It is, however, not disputed that even if revised standards are taken on their face value, failure of the CETP in maintaining ZLD and in treating effluents for irrigation is undisputed. Further issue of accountability for the damage caused by the polluted effluents to the crops as well as to the air quality by way of foul smell, as well as all other observations which are not related to the revised standards do remain unaddressed.
14. Our attention has also been drawn to an order dated 17.08.2018 of the Uttarakhand High Court in Write Petition (PIL) No. 77 of 2017- Himanshu Chandola Vs. State of Uttarakhand & Ors., considering the general issue of

pollution in the whole State of Uttarakhand. Wherein, directions have been issued to inspect each and every industry of the State to see whether norms under Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974, Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and Environment (Protection) Act, 1986 are being complied with or not. We make it clear that such larger issue, which is being considered by the Uttarakhand High Court, is not the scope of the consideration before this Tribunal. We are only considering the issue arising out of a specific complaint in the present case and the report of the Central Pollution Control Board, already submitted and further follow up action.

15. Having considered the issue mentioned above, we are satisfied that following directions are required to be issued:-

1. The CPCB may forthwith consider whether the norms fixed by the State Pollution Control Board, vide the order dated 14.06.2018, are in order and if not, what modifications are required. Such consideration may take place within one month from the date receipt of a copy of this order.
2. The CPCB may carry out fresh inspection of CETP and the industries in question within one month.
3. The State PCB may take appropriate legal action based on the findings in the fresh inspection report. The action may also include initiating prosecution, imposing penalty, taking performance guarantee from the CETP, as the situation may require.
4. For the past failure as noticed above, we assess the damage to the environment and the inhabitants to be Rs.

1 crore. This amount be deposited by the CETP and the SIDCUL to the extent of 50% each. Dispute of apportionment, if any may be resolved separately. The amount may be deposited with the CPCB within one month. For any delay, interest @12% per month will accrue. Out of the amount deposited, the CPCB may pay a sum of Rs. 1 Lakh as honorarium to the learned Amicus Curiae. Remaining amount may be spent on restoration of environment, as per norms and action plan.

16. With the above directions, the application stands disposed off.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

November 13, 2018

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