

Sri.C.Murugan, Proprietor, ... vs The Member Secretary, Karnataka State ... on 26 February, 2021

Author: K. Ramakrishnan

Bench: K. Ramakrishnan

Item No.15:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 102 of 2017 (SZ)

(Through Video Conference)

IN THE MATTER OF:

C. Murugan
Proprietor
M/s. Manjunath Dyeing Works
No.7, 26th Cross
Anekallappa Mutt Lane
Cubbonpet
Bangalore - 560 002.

...Applicant(s)

Versus

- 1) The Member Secretary,
Karnataka State Pollution Control Board,
Parisara Bhavana, 1st to 5th Floor,
49 Church Street,
Bengaluru 560 001.
- 2) Karnataka State Pollution Control Board
Regional Office,
Rep. by its Regional Officer,
Bangalore City West,
"Nisarga Bhavan", 1st Floor
Thimmaiah Road, 7th 'D' Cross
Shivanagar, Opp. Pushpanjali Theatre
Bengaluru 560 010.
- 3) Karnataka State Small Industries Development
Corporation Limited,
Rep. by its General Manager,
Industrial Estate,
Rajaji Nagar,

Bengaluru - 560 010.

- 4) Secretary to Government,
Government of Karnataka,
Industries Department,
Bengaluru.

(Impleaded as R4 as per order dt.12.05.2017)

...Respondent(s)

For Applicant(s): [1]
Mr. V. Suthakar.

For Respondent(s): Mr. R. Thirunavukarasu for R1, R2.
Mr. M.R. Gokul Krishnan for R3.
Mr. Darpan K.M. for R4.

Date of Judgment: 26th February, 2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

JUDGMENT

1. The above application has been filed by the applicant seeking the following reliefs:-

a) to initiate necessary steps and make arrangements for shifting the applicant unit along with the other units in Cubbonpet area, Bengaluru in a time bound manner as directed by this Hon'ble Tribunal in its common order dated 15.5.2015 passed in Application No.225 of 2014 etc. and

b) Further direct the respondent Board to extend the validity of the Consent to Operate (CFO) dated 4.10.16 issued to the applicant unit viz., M/s Manjunath Dyeing Works, No.7, 26th Cross, Anekallappa Mutt Lane, Cubbonpet, Bangalore 560 002 to such period as may be found reasonable in the light of the orders passed by this Hon'ble Tribunal dated 15.5.2015 in application No.225/2014."

2. It is alleged in the application that earlier the Karnataka State Pollution Control Board (KSPCB) issued closure order dated 24.07.2014 to the applicant and the applicant filed O.A. No.225 of 2014 before this Tribunal challenging the closure order and this Tribunal after admitting the matter, issued interim order of stay in respect of the closure order dated 24.07.2014 and electricity supply was directed to be restored and thereafter, the applicant was permitted to continue to run the unit.

3. While so, certain other dyeing units situated in the Cubbonpet area filed applications challenging the closure order issued in respect of those units and this Tribunal by a Common Order dated 05.02.2015, appointed a committee comprising of an Advocate and an Associate Professor of Environmental Science, Bangalore to inspect the dyeing units and directed them to file a report. The committee, after inspecting all the units, filed a report dated 15.03.2015 wherein, the committee suggested temporary and permanent measures for treating the effluents from the dyeing units. Subsequently, this Tribunal had disposed of the matter by common order dated 15.05.2015 which is evidenced from Annexure A1. Thereafter, certain steps have been made and consent has been renewed for some more time. But so far permanent steps have not been taken for the purpose of implementing the directions issued by this Tribunal. So, the applicant filed this present application before this Tribunal seeking the reliefs stated supra.

4. Thereafter, several orders have been passed by this Tribunal so as to enable the parties to implement the permanent measures of relocating the industries to some other area.

5. As per order dated 23.01.2020, this Tribunal had considered the status report filed by the parties and thereafter, directed the Karnataka State Pollution Control Board (KSPCB) to submit a further report regarding the other similar units said to have been functioning in that area.

6. Further, on 19.02.2020, this Tribunal had considered the report submitted by the Karnataka State Pollution Control Board and thereafter, passed the following order:-

"11. Though it was mentioned in the letter that other 13 units were also not working at the time of inspection, but they were not sure whether they were working during mid night and operating the facility clandestinely. There was no agreement with CETP and they have not produced any document regarding handing over of effluent to CETP. It was mentioned in the letter that the above 13 units located in Cubbonpet will be inspected once again and will be recommended for closure direction immediately. Even today, there is nothing mentioned whether any further steps have been taken by the Board in this regard. We feel that Board is also playing a hide and seek game in this regard. When there is no "consent to operate" and they are not complying with the norms, there is a duty cast on the Pollution Control Board to take action in accordance with law. They are not expected to wait for the directions of the Tribunal to exercise their statutory power in implementing the statutory norms which is the divine duty cast upon them.

12. So under these circumstances, we direct the Pollution Control Board to file a proper action taken report, after conducting inspection of the units which are not

complying with the directions of this Tribunal. The Tribunal has already stated that only if they comply with the directions, they are entitled to get the benefit."

7. The case was posted to 26.03.2020 and thereafter, the matter was taken up on 15.07.2020 and directed the State of Karnataka to submit the status report regarding the implementation of the directions issued by this Tribunal in O.A. 225 of 2014 and other connected matters by common order dated, 15.05.2015 regarding the shifting of the polluting industries to some other area so as to avoid damage being caused to the environment and posted the case to 09.09.2020 for that purpose.

8. On 09.09.2020, again it was adjourned for consideration of further status report. Thereafter, it was considered on 05.11.2020 and this Tribunal had considered the report submitted by the Environmental Officer, Regional Office, Bangalore City West which was extracted in Para 3 of the order which reads as follows:-

"Brief Inspection Report on Dyeing units located in Cubbonpet, Bengaluru

1) NGT (SZ), Chennai vide Application No.225/2014 by Mr. Muragan, M/s. Manjunatha Dyeing Unit and others.

2) NGT (SZ), Chennai vide Application No.102/2017 by Mr. Muragan, M/s. Manjunatha Dyeing Unit and others.

***** Preamble:

There are number of Dyeing and bleaching units located in Ward No.120 of Cubbonpet and Ward No.109 of Chikkipete of Bengaluru. The Dyeing & bleaching units are working in these areas since 80-70 years in the old method of hot water dipping, rinsing and drying process. These are very tiny/small units and located in the residential houses and they are carrying out the dyeing activity for fabric and yarn. After dyeing, bleaching and printing, the same will be handed over to the supplier. Then the fabric will be stitched and given to local market or garment units. The yarn after dyeing will be given to power looms for further weaving of sarees or to make garment.

Location of the Units The Cubbonpete and Chikkipete are located in the heart of City and this area is popular for commercial and residential activity since from the beginning. This area is located near to Office of BBMP, Deputy Commissioner, Police Station, etc., This is a very thickly populated area and roads are very narrow/small and very difficult to take four wheeler vehicles. Two wheeler vehicle or walking is the best for reaching to this area. These activities are being carried out in a small area like 10 ft x 20 ft or 20 ft x 20 ft. The majority of the dyeing units are located in residential house and discharging domestic and washing effluent to BWSSB drain. The source of water is BWSSB or tanker supply. The google map showing Cubbonpete area is enclosed as Annexure-I. Details of process activity:

The Dyeing units usually work on job work basis and require less water for rinsing, bleaching and dipping for printing. The main raw material required is color, water and yarn /fabric. These units, works usually in the day time and they carry out the dyeing activity in batch process. To get hot water, some of the units use wood as fuel for boiler, some units use LPG as fuel for oven and some of the units directly feed the wood to oven to heat the water in tank/pan. Due to this activity, the possibility of the complaint is on air pollution and water pollution due to discharge of effluent. Some of the units having borewell as water supply sources and other have BWSSB supply. These units will be having employees of about 2-6 only and working in the residential house itself. Since they are operating in the residential houses without having any Board name, it is very difficult to identify in these area.

Complaint History:

The Bard has received the complaints since June, 2010 by the residents of the surrounding area, Press, RTI Activities etc. Even they have also approached the Hon'ble Lokayuktha on illegal Dyeing units. Upon complaint, the Board officers have made several inspections and collected the sample with Mahazar etc. Further, the Board has taken various actions on illegal units by way of calling for Personal Hearing and Technical Discussions. Then the Board has issued notices for non compliances and also conducted awareness cum work shop and communicated the proceedings to the Association vide Letter No.6518 dated 22.02.2012. In spite of several opportunities given to them, they have not complied to consent conditions and then the Board has issued the closure orders to all illegal units. Upon the request of the unit authorities, the Board has revoked the closure directions and issued again consent order on 18.08.2015 for the period upto 30.06.2016 to relocate from the existing location to suitable site away from the present place with all infrastructural facilities and pollution control measures in any event within 2 years from the date of revocation of closure order (i.e. 15.07.2017) and to handover the industrial effluent CETP of M/s. Eco Green Solutions Private Limited for further treatment and disposal.

Among these units, Mr. C. Murugan of M/s. Manjunatha Dyeing Works has filed appeal before the Karnataka State Appellate Authority at Bengaluru:

- 1) On 14.10.2011 vide Appeal No.6/2011 C/w 07/2011.
- 2) On 17.06.2013 vide Appeal No.16/2013 These cases were disposed.

However, Mr. C. Murugan of M/s. Manjunatha Dyeing Works and other also filed appeal before Hon'ble National Green Tribunal, Southern Zone at Chennai.

- 1) NGT (SZ) vide Application No.225/2014

2) NGT (SZ) vide Application No.102/2017 These cases are pending.

Action Initiated by Board:

The closure orders were issued to the industries that are located on 15.11.2014 by the Regional Officer after getting concurrence from the Board Office. After receipt of Closure order, Mr. Muragan of the Manjunatha Dyeing Unit has approached the Hon'ble National Green Tribunal, Southern Zone, Chennai vide Application No.225/2014. "The NGT vide Judgment order dated 15.05.2015 directed the industry to apply for consent of the Board with short and long term measures subject to payment of fee of polluter of Rs.15,000/-

in favour of Secretary DEE, GOK by granting consent for one year which may be extended by one more year." Accordingly, the industry has applied for consent with short term measures and consent fee as well as polluter pays fee of Rs.15,000/-.

Hence and upon the request of the unit authorities, the Board has revoked the closure directions and issued again consent order on 18.08.2015 for the period upto 30.06.2016 to relocate from the existing location to suitable site away from the present place with all infrastructural facilities and pollution control measures in any event within 2 years from the date of revocation of closure order (i.e. 15.07.2017) and to handover the industrial effluent CETP of M/s. Eco Green Solutions Private Limited for further treatment and disposal.

Further, the Regional Office has issued notice on 20.02.2017 to apply for renewal of consent. There is no response from the any dyeing industries. Also a Show Cause Notice was issued to the industry from Board office on 05.04.2017. But there is no reply from the industries for the notice issued from the Board till date.

On 20.02.2018, the DEO of the Regional Office has inspected the working units and recommended to issue Notice of Proposed Directions for the violating units vide this office letter No.1599 dated 21.03.2018 by forwarding the inspection reports to Regional Senior Environmental Officer.

After several hearing by the Hon'ble NGT and due to COVID issues the dyeing units could not pursued. On 10.09.2020 the Hon'ble NGT has directed the Board to submit action taken report and the case is posted to 28.10.2020.

In this regard, the dyeing units located in the area of Cubbonpete have been inspected on 29.09.2020 and 30.09.2020 and observed that they are working with BWSSB power supply without obtaining consent of the Board and not shifted to the suitable locations as mentioned in closure orders and previous consent order. The Dyeing units list is enclosed as Annexure-II.

This is a sensitive area and once the Board Officers entering into the area, the message will spread to the entire area because of their disperse. Even, they have not displayed any Board for identification

of dyeing units and it is very difficult to identify the units by the officers especially newly transferred officers. If the officers enter into the dyeing units, the main persons will abscond from the building and workers present will not give any proper information's and nobody will not sign for mahazar. This is the great difficult for the officers. The other departments like BBMP, BWSSB and BESCOM etc have already given permission for establishing and running of these units. Now, it is great difficulty to shift the units as they are approaching various sources by making pressure. Hence, it is opined to make the team comprises of BBMP, BWSSB, BESCOM, Sales Tax, GST authorities etc to involve for the task. If it is tackled in this right way, then the area will be controlled from the pollution.

Recommendation:

Since the case is before the Hon'ble NGT, it is recommended to issue closure order to these units as they are operating without the CFO of the Board and discharging the untreated washing effluent into BWSSB drain.

Environmental Officer RO, Bengaluru City West Enclosures:

- 1) Google map of Cubbonpet area (Annexure-I),
- 2) List of Dyeing units (Annexure-II),
- 3) Inspection reports of the individual Dyeing units with photographs of the Dyeing units."

9. Thereafter, this Tribunal passed the following order:-

"5. It is seen from the report that most of the units are operating without getting necessary consent from the Pollution Control Board and without complying with pollution norms. When this was pointed out, the learned counsel appearing for the applicant submitted that he received the report yesterday night only and if two days time is granted, he may be able to come with his submissions to the report.

6. This matter is of the year 2017. Further, the prayer in the application cannot be granted by this Tribunal according to us and the operation of the unit in a residential area for a longer period will also cause environmental degradation.

7. However, considering the request made by the counsel appearing for the applicant we grant short time till 09.11.2020 to them."

10. The case was posted to 09.11.2020 and on 09.11.2020, this Tribunal passed the following order:-

"7. When this was pointed out, the learned counsel for the fourth respondent submitted that he will come with a concrete proposal regarding the same as to

whether the Government intend to relocate these industries to a place where they can operate after complying with all the necessary environmental laws.

8. It is also mentioned in the earlier order that long term measures will have to be initiated by the units along with Government Authorities including the Board to permanently relocate the units to a suitable site, away from the present place with all infrastructural facilities and pollution control measures for the sustainable development of the economy and industry to successfully implement the same. The Government which constitute nodal agency consisting of Karnataka State Small Industries Development Corporation and Member Secretary of the Karnataka State Pollution Control Board will have to be approached to the extent of getting necessary assistance in this regard. There is also a direction that it has to be implemented in any event within two years. That two years period is also over. It is on the basis of this order the functioning of the units were continued after getting some permission from the Pollution Control Board which has been expired and not renewed.

9. The learned counsel for the applicant also submitted that because of the show cause notice, they are not operating the unit at present. But this was disputed by the counsel for Pollution Control Board. The Pollution Control Board has already submitted the report stating that they have already issued show cause notice against the units who are functioning without complying with the environmental norms. They are directed to continue with their proceeding and submit further action taken report to this Tribunal regarding the same. The fourth respondent is directed to submit the present status of the implementation of the directions given by this Tribunal in O.A.No.225 of 2014 dated 15.5.2015.

10. The Registry is directed to communicate this order to the Karnataka State Pollution Control Board and the Chief Secretary of the Karnataka State Government, the Member Secretary, Industries Department, Government of Karnataka along with the copy of the order passed in O.A.No.225 of 2014 so as to enable them to comply with the directions given by this Tribunal for submitting the further action taken report as well as implementation of the directions given by this Tribunal in the earlier proceeding and they are directed to file their respective report to this Tribunal on or before 20.1.2021 through e-filing at ngtszfilling@gmail.com.

11. In the mean time, the industries are directed not to operate without getting necessary 'consent' and further permission from the Pollution Control Board and also directed not to discharge the trade effluents into the sewerage line so as to pollute the sewerage carried in the sewerage line."

11. The case was posted to 20.01.2021 for consideration of further report. On 20.01.2021, it was adjourned to 04.02.2021 and on 04.02.2021, it was adjourned to today by successive notifications.

12. When the matter came up for hearing today through Video Conference, Mr. V. Suthakar represented the applicant. Mr. R. Thirunavukarasu represented respondents 1 & 2, Mr. M.R. Gokul Krishnan represented 3rd respondent and Mr. Darpan K.M. represented 4th respondent.

13. We have received the report submitted by the Karnataka SPCB which shows that closure orders have been issued to the non-complying industries.

14. The learned counsel appearing for the applicant submitted that as regards the applicant unit is concerned, closure order has been issued and they are not operating the unit now.

15. The learned counsel appearing for the respondents 1 & 2 submitted that since all dyeing units situated in that area are non-complying units, closure orders have been issued and none of the units are functioning at present.

16. Further, as per order dated 09.11.2020, this Tribunal had directed the industries not to operate without getting necessary consent and further permission from the KSPCB and also directed not to discharge trade effluents into the sewage line so as to pollute the sewerage carried in the sewerage line.

17. As regards the prayer in the application is concerned, this Tribunal had only directed the applicant to approach the authorities and if they approach, the authorities are directed to consider and pass appropriate orders regarding the relocation of industries.

18. So, it is for the authorities to consider such request and pass appropriate orders and this Tribunal cannot direct the authorities to allocate the area. Further, if there is already an industrial estate formed by the State, then it is for the individual parties who want to get accommodation in that area to apply and get allotment and shift their industries to that area and if they are aggrieved by any orders passed by such authorities, then they will have to resort to their legal remedy before the appropriate forum and not to the National Green Tribunal, as such application cannot be entertained under Section 14 & 15 of the National Green Tribunal Act, 2010 and the applications can be filed only by the victims of pollution and not by the alleged polluting industries who want to get further protection from the Tribunal to run their unit without complying with the pollution norms.

19. As regards prayer No.2 is also concerned, this Tribunal cannot issue such a direction to the KSPCB to issue consent. If they did not comply with the pollution norms and if such units are not permissible in that area, it is for the PCB to consider and pass appropriate orders, if any applications have been filed by the units for that purpose. If the units are aggrieved by the same, then legal remedies are available for them to challenge the same before the appropriate forum as provided under the respective statutes.

20. So under such circumstances, we feel that the relief claimed by the applicant in this application cannot be granted by this Tribunal, invoking the power under Section 14 & 15 of the National Green Tribunal Act, 2010. If the applicant approaches the concerned authorities for relocating their industries, it is for the authorities to consider and pass appropriate orders in accordance with law

and this Tribunal cannot issue any direction that such allotment has to be done as a matter of right.

21. If the applicants request has not been considered by the authorities, then the applicant's remedy is to approach the appropriate forum for directing the authorities to consider the same and pass appropriate orders and not to this Tribunal under Section 14 & 15 of the National Green Tribunal Act, 2010.

22. So considering the facts and circumstances, leaving open the right of the applicant to approach the appropriate authorities, this Tribunal is closing the matter as the reliefs claimed in the application cannot be granted.

23. With the above observations and directions, this application is disposed of.

Sd/-

.....J.M. (Justice K. Ramakrishnan) Sd/-

.....E.M. (Shri. Saibal Dasgupta) O.A. No.102/2017, 26th February, 2021. Mn.