

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Application No. 37/2013 (T<sub>HC</sub>)  
Wassan Singh V/s State of Punjab & Ors.

CORAM: HON'BLE SHRI JUSTICE V. R. KINGAONKAR, JUDICIAL MEMBER  
HON'BLE DR. P.C. MISHRA, EXPERT MEMBER  
HON'BLE SHRI RANJAN CHATTERJEE, EXPERT MEMBER  
HON'BLE SHRI B.S. SAJWAN, EXPERT MEMBER

Applicant / Appellant : Mr. Abhimanyu Garg, Advocates  
Respondent No. 1 : Ms. Puja Dewan, Adv. for Mr. Anil Soni, Adv.  
Respondent No. 2 : Mr. Parshotam Kumar  
Respondent No. 3 : Mr. Ashish Verma, Advocates  
Respondent No. 4 : Mr. Nikhil Jain, Advocate  
Respondent No. 5 : Mr. C. Kannan, Advocate

Date and Remarks	Orders of the Tribunal
<p>Order No. 4 May 8, 2013</p>	<p>We have heard Learned Counsel for the parties.</p> <p>The Applicant and the owner of the factory have, apparently, come to the terms and want to settle the dispute among themselves.</p> <p>We directed earlier by order dated 29.04.2013 that officer of the Pollution Control Board shall pay visit at three different times to the factory in question and record the decibels of sound level emanating from the factory during the course of its full operation.</p> <p>The Learned Counsel for the Pollution Control Board has placed on record the report of the concerned Officer. According to the report, the officer visited the factory in question at three different points of time while it was in full operation. The sound level recorded at all the three times exceeded the permissible limit of 55 decibels, i.e. the day-time limit.</p> <p>The Learned Counsel appearing for the factory owner, Mr. Mukesh Kumar Singh, states that he will instruct the owner of the factory to make serious attempt to reduce the noise pollution and bring it down below the permissible limit by installation of scientific device/equipments available due to advent of new technology.</p> <p>We have noticed that the factory of the Respondent No. 5 is being run without 'consent to operate' by the Pollution Control Board. This fact is stated by the Counsel for the Respondent No. 3 too.</p>

However, Learned Counsel appearing for the Respondent No. 5 i.e. owner of the factory says that his factory was made operational since about 30 years.

We will consider the compromise petition filed by the Applicant and Respondent No. 5 only after the 'consent to operate' is given to the Respondent No. 5 and on alleged attempt to reduce the noise pollution below the prescribed limits.

We have no inclination to grant the terms of compromise for settlement of the dispute and hastily dispose of the Application pending before us.

In no uncertain terms, we disapprove the inaction of the Pollution Control Board. The Counsel for the Respondent No. 5 submits that an Application is already filed for obtaining 'consent to operate' the factory. He is ready to produce copy of the Application. He further states, on instructions of the Respondent No. 5 who is present in the Court, that not only the factory of the Respondent No. 5, but approximately five thousand such factories are in operation in the area without consent to operate. This is a very serious matter.

We direct the Pollution Control Board to immediately take steps for giving direction to all such factories, including that of the Respondent No. 5, to close down if they are found to be operating without obtaining the necessary permission/consent to operate.

The units/ factories having consent to operate shall be excluded, however, from the direction to close down the business.

A copy of this order shall be furnished to the CPCB and MoEF to immediately take suitable action in order to arrest such large scale dereliction of the legal obligation, i.e. running of units without obtaining proper consent to operate from the Competent Authority.

We further direct the Concerned Pollution Control Board/Boards and the CPCB to file Action Taken Report (ATR) in the Registry of the Tribunal within a period of three weeks and ensure that all the

procedure for sealing the illegally run/operated factories/units is immediately undertaken without waiting for any further order. The local police shall extend all cooperation to the PCB in the sealing process. Functioning of all the illegally run factories/industrial units shall be immediately stopped.

The Learned Counsel for the Pollution Control Board says that some of the industries are already exempted from obtaining consent to operate. If any industry/ unit is specifically exempted under the Rules or relevant provisions of the law or notification, the operation thereof may not be stalled and the report given by the Pollution Control Board shall mention such exemption with all the details of specific direction about the exemptions. The Pollution Control Board shall give list of all the factories/units operating in the area, those operating with consent, those operating illegally and have been closed down/sealed as well as those which are exempted from taking consent to operate and reasons for such exemptions. A copy of this order be given to the Superintendent of Police by the concerned officer of the Pollution Control Board in order to conduct Panchanamas of closure/sealing of the illegally operated factories/industrial units. The PCB to file ATR by next date.

**Stand over to 30<sup>th</sup> May, 2013.**

....., JM  
(V. R. Kingaonkar)

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

....., EM  
(Ranjan Chatterjee)

....., EM  
(B.S. Sajwan)