

Before the Hon'ble Appellate Authority Constituted under section 28 of the Water (Prevention & Control of Pollution) Act 1974 & under section 31 of the Air (Prevention & Control of Pollution) Act 1981.

Appeal No. _____ 2013.

Jayaswal Neco Industries Limited (ECD) ----- Appellant

Plot No. T 41, 42, MIDC Industrial area Hingna Road, Dist: Nagpur -16

V/s

Maharashtra Pollution Control Board,

Kalpataru Point, 3rd Floor,

Sion- Matunga Scheme Road No. 8

Opposite Cine Planet Cinema, Near Sion Circle, ----- Respondent

Sion (East) Mumbai – 400022

Date of Hearing 07-06-2013

The Appellant Authority Consist of

1. Smt. Valsa Nair Singh ----- Chairman
2. Shri. Anil Gadage, Exe. Engineer
Maharashtra Jeevan Pradhikar, Mumbai I ----- Member
3. Hydraulic Engineer, MCGM ,Mumbai ----- Member
(Not present)

ORDER

During the course of hearing the Appellant Shri. A.B. Pandey, President of the Appellant, along with Shri. Shreerang Thergaonkar were present. Shri. Rajeev Kumar Mital, Member

Secretary, Respondent, Assisted by Shri. D. T. Devale, Sr. L.O. & V.M. Motghare, APAE were present.


The Appeal preferred by the Appellant Challenging the Consent to establish dtd. 1-3-2013, issued by the Respondent Board in favor of the appellant. In the said consent letter, the Respondent has claimed forfeiting 50% of B.G. which has been submitted by the appellant in consonance to 'Consent to operate' dtd. 21-6-2012 issued by the Respondent in favour of appellant for its Industrial Plant at Plot No. T- 41 & 42, MIDC industrial area Hingna Rd, Dist: Nagpur.


It is the contention of the Appellant that, the appellant made an application on 7-5-2012 to the Respondent Board for grant of 'consent to establish', since appellant had planned to add high pressure moulding line to its existing unit for which they had 'consent to operate' issued by the Respondent on 21-6-2012 & is valid up to 28-2-2013. In Compliance of one of the terms & condition of the said consent, the appellant have furnished the B/G of Rs. 5.00 lakhs to the Respondent for upgradation of Air Pollution Control System which are in operation. It is the Submission of the appellant that the existing Air Pollution Control system provided by them meeting the Air Pollution Control Standards stipulated by the Respondent. Now, they have applied on 7-5-2012 for getting 'Consent to establish' with a plan to provide high pressure moulding line to its existing set up along with its expansion of the product. 'Though 'Consent to establish' was granted by the respondent on 1-3-2013, it is injustice caused to them by way of forfeiting 50% of B/G submitted by them by the respondent without giving any opportunity to explain their case, even after making a representation dtd. 18-7-2012 to the respondent. The judgment & order passed by the Hon'ble S.C. and B'bay H.C. wherein it is upheld that any order should be reasoned one which is expected by the authority to act fairly & in consonance with basic rule of Law. Therefore, even after representation made by the appellant to the Member Secretary, they were not extended an opportunity of hearing but inclined to deduct 50% of the B/G without assigning any reason for passing such order.

The written submissions of the respondent is taken on record & thereby argument made at the time of hearing, it is the contention of the respondent that, while issuing 'Consent to operate' dtd 21-6-2012, the condition no. 12 especially stipulated that, the industry shall upgrade air pollution control system at cast iron casting section within 3 months i.e. up to 31.8.20 12 & shall submit B/G of Rs. 5.00 lakh in compliance of said condition. In the written submission made by the respondent it is mentioned that results of AAQM like RSPM & Stock monitoring results of induction furnace are exceeding Consented limits. However, it is admitted by the respondent before the authority that, it will take review of the matter in the context of representation made by the appellant to the respondent as to whether the up gradation of APC at cast iron section is required or otherwise & therefore the Authority inclined to pass the following order.

The matter relating to above appeal heard in detail from both side & disposed of with a direction to the respondent to take a review in the matter and thereafter to take appropriate decision of forfeiting of B/G of Rs. 2.5 lakhs within a period of one month in compliance of the Principles of Natural Justice.

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Member
Hydraulic Engineer
Municipal Corporation
of Greater Mumbai


(Shri. Anil Gadage)
Member,
Exe. Engineer, MJP


(Smt. Valsa Nair Singh)
Chairperson
Appellate Authority