

Before the Appellate Authority constituted under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981

M/s Shree OM Enterprises, through its Prop.
Marotrao S/o Rajaram Motghare,
Plot No. 81, NMC House No. 1077,
Mudliyar Layout, Shantinagar,
Nagpur Tal. & District: - Nagpur.

... Appellant

V/s

Maharashtra Pollution Control Board
Through its Regional Officer, Regional Office,
5th floor, Udyog Bhavan, Civil Line,
Nagpur - 440001.

... Respondent

Date:- 19/7/18

ORDER

The appeal filed by the Appellant under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981, while aggrieved by the directions of closure dated 02/05/2018 issued by the Regional Officer, Nagpur of the Respondent Board under the provisions of the above enactments.

The matter was fixed for hearing before the Appellate Authority on 19/07/2018 at Environment Department office, Hall No. 3, Hyderabad House, Civil Line, Nagpur. On behalf of Appellant Mr. P. J. Kanoongo, Advocate along with Prop. Shri Marotrao Rajaram Motghare of the Appellant Industry were present. Shri Rahul Wankhade, R.O. MPCB Nagpur & S. D. Mohare, Field Officer, MPCB Nagpur - I were present on behalf of Respondent Board.

A) Contention of the Appellant

At the time of hearing the Appeal before the Appellate Authority, Advocate for the Appellant argued that, the Appellant Industry manufacturing Aluminum utensils by using punching machine, spinning machine & polish machine & the said machines does not create any noise or Air pollution. It is further argued that, the said firm registered under the Shop & Establishment Act on 07/07/1988 which is renewed from time to time. The Nagpur Municipal Corporation granted the NOC dated 11/12/1986 issued under the provisions of Nagpur Municipal Corporation Act to the Appellant Industry. The Appellant Industry registered with Govt. of Maharashtra, Directorate of Industries as a small scale industry & certificate to that effect is issued on 14/06/1988 to the said industry. The Appellant Industry submitted an online application dated 31/08/2017 to the Respondent Board for obtaining consent under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981 & also for authorization under the provisions of the Hazardous Wastes (Management & Handling) Rules, 1989 as amended in January, 2000.

It is further argued that, the directions dated 02/05/2018 issued by R. O. Nagpur is in violation of Principles of Natural Justice without giving an opportunity to the Appellant before issuing said directions. They have to obtain consent from MPCB for which Appellant have already applied to MPCB. The Appellant further contended that, the said directions of closure issued without complying the provisions of the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981 for Collection of samples from the Appellant Industry. Therefore, directions issued under the above provisions without taking sample as contemplated under the said provisions is liable to be set aside. .

It is submitted that, the complaints made by Gupta family are frivolous as the said contention has been substantiated by the Appellant by way of production documentary evidence of other local people residing in the said vicinity , stating that they have not effected by the running of the Appellant Industry. Therefore, the Appellant filed defamation proceedings before the Civil Court for claiming compensation against the Gupta Families who have made fake complaints against the Appellant. Therefore, closure directions dated 02/05/2018 issued by R. O. MPCB, Nagpur may be set side relying upon the above grounds.

B) Contention of the Respondent Board.

It is contented by the Regional Officer, MPCB Nagpur that, the Board has received complaint on 30/01/2017 against Appellant from Kamla Bai Liladhar Gupta regarding Air Pollution & Noise Pollution being caused by the Appellant industry, which is located in the Residential area. The official of MPCB Board at Nagpur visited the Appellant industry on 15/03/2017. During the course of said visit it was observed that, industry was in operation & running without obtaining 'consent to establish' & 'consent to operate'. The industry has not provided Air & Water pollution control system. The JVS collected on the said date, pH value was found 2.00.

It is further submitted that, as per the order dated 08/05/2013 passed by the Hon'ble NGT, Principal Bench, New Delhi in Application No. 37/2012 filed by Wassan Singh V/s State of Punjab, it is directed by the Hon'ble Tribunal that, if the industry is operating without obtaining necessary permission / consent to operate such industries shall be closed down. Therefore, taking into consideration the visit report & the order passed by the Hon'ble NGT, Principal Bench, New Delhi, the Regional Officer MPCB Nagpur issued directions of voluntary closure dated 12/04/2017, U/s 33 A of the Water (Prevention & Control of Pollution) Act,

1974 & U/s 31 A of the Air (Prevention & Control of Pollution) Act, 1981 r.w. Hazardous Wastes (Management, Handling & Transboundary Movement), Rules, 2008 to the Appellant Industry.

Thereafter, the Appellant made an application for consent to establish / operate vide email dated 31/08/2017 for to the Maharashtra Pollution Control Board. The said application was returned to the Applicant to submit the same along with compliance report of the voluntary closure directions issued by the R.O. MPCB, Nagpur vide letter dated 08/02/2018. The Applicant made an request application to the office of MPCB at Nagpur to allow them to restart the unit which was closed in consonance to direction of voluntary closure dated 12/04/2017, now they have stopped their activity of washing acid & not generating any industrial effluent.

It is further submitted before the Authority by the R. O. Nagpur that, during the visit of the officials of the MPCB at Nagpur on 09/03/2018 to the Appellant Industry, it was noticed that, unit found in operation & causing heavy noise pollution during the operation which is confirmed after noise monitoring carried out by the said official of MPCB near the gate of the Appellant industry.

Therefore, taking into consideration the above facts, the R. O. MPCB, Nagpur issued closure directions dated 02/05/2018 to the Appellant Industry mentioning therein that, the Appellant industry is running without obtaining consent to establish & consent to operate from the Board under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981 & also failed to provide, operate & maintain water & air pollution control system properly. The Appellant Industry is located in the residential area though operating without obtaining restart order from the MPCB & also without providing pollution control devices to their unit. This shows the negligent attitude by the said industry towards providing the pollution Control

equipments & thereby willingly causing grave damages to the Environment. Therefore, the closure directions issued against the Appellant industry found to be correct & the Appeal filed by the Appellant may kindly be dismissed.

It is observed from the submissions made by both parties that,

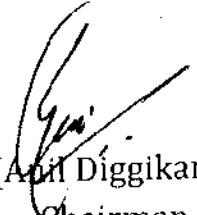
- 1) The Appellant industry is running without obtaining consent from the Board under the provisions of the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981. Even after voluntary closure directions issued by the R.O. MPCB , Nagpur the industry was found in operation without providing pollution control devices which is noticed during the visit of the officials of the MPCB to the Appellant industry. The Application submitted by the Appellant industry to the MPCB for grant of consent, same was returned to the Appellant to submit the same along with the compliance of voluntary closure directions issued on 12/04/2017 by R. O. MPCB, Nagpur. Therefore, it is confirmed that, as on today the Appellant failed to obtain consent from the Board under the above provisions & also not provided Pollution Control equipments.
- 2) As per the order dated 08/05/2013 passed by the Hon'ble NGT, Principal Bench, New Delhi in Application No. 37/2013 filed by Wassan Singh V/s State of Punjab & ors., it is directed to the Pollution Control Boards to close the units which are operating without consent from the State Pollution Control Board. In the present case, even after issuing voluntary closure & giving the ample time to the Appellant, the Appellant failed to obtain consent from the Board

under the above provisions & also operating without providing necessary pollution control devices. The Appellant industry is located in the residential area & thereby causing noise pollution without paying any attention to the Environment.

Therefore, the appeal filed by the Appellant is hereby rejected.

Not present
(Manisha Palande)
Member
Appellate Authority

Not present
(A. S. Tawadia)
Member
Appellate Authority


(Anil Diggikar)
Chairman
Appellate Authority