

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

Original Application No. 52/2014 (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S. Rao
(Expert Member)**

BETWEEN:

1. Nawab Khan
S/o Shri Ibrahim Khan,
Aged about 42 Years,
R/o S-8 Chanakyapuri Colony,
J.K. Road, Bhopal
2. Kashiram Patel
S/o Shri Mardam Singh,
Aged about 50 years,
R/o S-1, Chanakyapuri Colony,
J.K. Road, Bhopal
3. Saurabh Sahu
S/o Shri S.P. Sahu,
Aged about 33 years,
R/o S-2, Chanakyapuri Colony,
J.K. Road, Bhopal.
4. Sunil Pal
S/o Late Shri R.K. Pal,
Aged about S-15, Yojna Vihar,
Chanakyapuri Colony,
J.K. Road, Bhopal
5. Khujur Saha
R/o R.K. Saha,
Aged about 47 years,
R/o S-16, Chanakyapuri Colony,
J.K. Road, Bhopal.
6. S.N. Gour
S/o Late Shri H.L. Gour,
R/o S-17 & 18, Yojana Vihar,

- Chanakyapuri Colony,
J.K. Road, Bhopal
7. Shivaji,
Aged about 45 years,
R/o S-19, Chanakyapuri Colony,
J.K. Road, Bhopal
8. Rupesh Kureel
S/o Guru Dayal,
Aged about 43 years,
R/o S-104, Chanakyapuri Colony,
J.K. Road, Bhopal.
9. Rakesh Sarathi
S/o Shri Ramesh Sarathi,
Aged about 35 years,
R/o S-114, Chanakyapuri Colony,
J.K. Road, Bhopal.
10. Shivaji Bheeyare
S/o Shri Ramratan Bheeyare,
Aged about 42 years,
R/o S-19, Chanakyapuri Colony,
J.K. Road, Bhopal.
11. Shri Batham
S/o Shri R.K. Batham,
Aged about 42 years,
R/o S-22, Chanakyapuri Colony,
J.K. Road, Bhopal.
12. Sunil Kumar
S/o P.K. Kumar,
Aged about 49 years,
R/o S-107, Chanakyapuri Colony,
J.K. Road, Bhopal.

Versus

.....Applicants

1. Department of Housing & Environment,
State of Madhya Pradesh,
Through its Principal Secretary,
Vallabh Bhawan, Bhopal.
2. Department of Industries
State of Madhya Pradesh,
Through its Principal Secretary,

Vallabh Bhawan,
Bhopal.

3. M.P. Pollution Control Board
Through its Member Secretary,
Paryavaran Parisar, E-5, Arera Colony,
Bhopal.
4. Regional Office Bhopal
Madhya Pradesh Pollution Control Board,
Regional Office, Paryavaran Parisar,
E-5, Arera Colony,
Bhopal.
5. M/s M.M. Bajaj Packaging & Engineering Works
Through its Owner Dr. Asha Bajaj,
W/o Commander P.K. Bajaj,
Plot No. 24-C, Sector D,
Industrial Area, Govindpura,
Bhopal.

.....Respondents

Counsel for Applicant:

**Mr. Alkesh Agrawal, Advocate &
Mr. Sambhav Sogani, Advocate**

Counsel for Respondent No. 1 & 2:

Mr. Sachin Verma, Advocate

Counsel for Respondent No. 3 & 4:

**Mr. Shivendu Joshi, Advocate for
Mr. Purushaindra Kaurav, Adv.
Mr. R.R. Sengar, AE, MPPCB**

Counsel for Respondent No. 5 :

**Mr. Ajay Gupta, Advocate with
Mr. Nishant Goel, Advocate**

Dated : April 29th , 2014

Delivered in open court by

Hon'ble Mr. Justice Dalip Singh, Judicial Member

1. Heard learned counsel for the parties and perused the record. Reply submitted today by the Respondent Nos. 3 and 4 is ordered to be taken

on record. Copy of the same has been furnished to the learned counsel for the Applicant.

2. This application had been filed by the Applicant complaining about the pollution being caused by various units including that of Respondent No. 5 in the industrial area at Govindpura in Bhopal. As regards the Respondent No. 5, it was submitted that the said unit is operating sand blasting and short blasting at Plot No. 3, Sector-D of the Industrial Area of Govindpura and as a result of the aforesaid activity, since necessary precautionary measures had not been put into place, they were violating the provisions of the Air (Prevention & Control of Pollution) Act, 1981 and causing air pollution in the vicinity.
3. The Tribunal after receipt of the application directed issuance of notice vide order dated 13th March, 2014. After service of notice, the matter was taken up for hearing on 4th April, 2014. The learned counsel for the MPPCB submitted their reply and stated that inspections were being carried out in the premises of the Respondent No. 5 and notices with regard to the shortcomings in terms of the Air Act under Section 31(A) had been issued to the Respondent No. 5. It was further stated that as a result of the aforesaid notices, the Respondent No. 5 had closed the unit.
4. In the reply filed by the Respondent Nos. 3 and 4, it has been submitted that inspection of the unit of the Respondent No. 5 was carried out on 27th March, 2014 by the officers of the MPPCB and notice was issued. It has been submitted today by the learned counsel for the MPPCB that after the aforesaid notice was issued, the Respondent No. 5 had approached the Pollution Control Board stating that rectification had

been done and requested that an inspection may be taken up. Therefore, the Pollution Control Board again deputed its officers for inspection but it was found that the measures so adopted, were inadequate and as such permission to operate the unit had not been granted by the Pollution Control Board to the Respondent No. 5.

5. Learned counsel for the Respondent No. 5 submitted that other units located in the industrial area at Govindpura in Bhopal were also committing similar violations and they were still being permitted to run and only the Respondent No. 5 has been targeted.
6. Learned counsel for the Respondent No. 3 submitted that the above fact is not correct and similar notices under the Air Act, 1981 have been issued to the other industries also which are found to be non-compliant and in case these fail to take satisfactory measures, the same shall also be ordered to be closed down.
7. Learned counsel for the Respondent No. 5 submitted that the Respondent No. 5 will be taking all the necessary measures and may be allowed to operate the unit once the said measures are put into place.
8. So far as the aforesaid prayer is concerned, we direct that the Respondent No. 5 shall be at liberty to approach the officials of the Regional Office of the Pollution Control Board at Bhopal and request them to carry out the inspection and on receipt of the aforesaid intimation from the Respondent No. 5, the officials of the Pollution Control Board shall carry out the inspection within a week thereafter and in case the measures taken by the Respondent No. 5 are found to be satisfactory, shall proceed in accordance with law for granting the consent to Respondent No. 5.

We may also add that after receiving the response of other units to whom notices have been issued, inspection shall be carried out and in case satisfactory measures are not in place, action with regard to closure of those units shall be initiated by the Respondent Nos. 3 and 4 including disconnection of the electricity and water supply to the said units.

9. While the grievance of the Applicant with regard to the present issue has been taken care of, we may add that this is the position prevailing in the Capital of the State of Madhya Pradesh where the headquarters of the Pollution Control Board itself is located and the Regional Office of the Pollution Control Board is also situated. It should not be left to the Applicants to come and complain against such violations and it is the duty of the officials of the Pollution Control Board to carry out a regular monitoring and inspection and as and when units are found to be non-compliant or polluting action in accordance with law shall be initiated against them.
10. Learned counsel for the Respondent Nos. 3 and 4 submitted that with the volume of the work as well as the available staff it is not possible for the Pollution Control Board to carry out inspection as would be expected out of them. It was submitted that this Tribunal had already issued directions to the State Government for increasing the sanctioned strength of posts in the Pollution Control Board and the aforesaid matter is still pending with the State Government.
11. Shri Sachin Verma, learned Standing Counsel for the State submitted that the State had already considered the aforesaid issue and even the Finance Department has given its concurrence however some

clarifications were sought from the Pollution Control Board and the matter rests at that.

- 12.** Whatever be the problem with regard to compliance of the directions issued by this Tribunal in the Judgment dated 9th May, 2013 in the case of *Cox India Ltd. Vs. M.P. Pollution Control Board*, we direct that the Principal Secretary, Environment and Housing shall take up the issue with the Chairman, Pollution Control Board and all measures that are necessary shall be put into place and necessary government sanctions be issued for the revision of the sanctioned strength of the staff within two weeks and direction in the judgment dated 9th May, 2013 be complied with. The matter shall be listed on 15th May, 2014 before the Tribunal and by that date if the compliance is not made, the Principal Secretary, Environment and Housing shall appear personally along with the Chairman, Pollution Control Board to explain the issue and file necessary affidavits regarding the steps taken so far and show cause why the judgment dated 9th May, 2013 has not been complied with. In case, we do not find satisfactory explanation for the delay, the Tribunal shall hold the officers concerned personally liable and if necessary issue penal orders against them for non-compliance.
- 13.** We make it clear that in case sanction orders are issued and compliance in the case of *Cox India Ltd. (supra)* is made before 15th May, 2014, the personal appearance of the aforesaid officers shall stand dispensed with and it would be sufficient to file the affidavits of the Principal Secretary, Environment & Housing and Chairman, MPPCB.

14. Accordingly, this Application stands disposed of. The learned counsel for the State and MPPCB shall convey our order to the concerned officer. List on 15th May, 2014 for compliance.

(Mr. Justice Dalip Singh)
Judicial Member

Bhopal:
April 29th, 2014

(Mr. P.S.Rao)
Expert Member

