

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 328/2014

In the matter of :

Krishan Kant Singh & Ors

.....Applicants

Versus

Daurala Sugar Works Distillery Unit Daurala

.....Respondents

Counsel for Applicant/Appellant:

Mr. Rahul Chaudary, Ms. Maneka Kaur, Ms. Preeti Dhar & Ms. Pallavi Talware, Advs.

Counsel for Respondents:

Mr. Parag Tripathy, Mr. Pawan Upadhyay, Mr. Nishant Kumar & Ms. Kanika Tondon, Advs. for Respondent No.1, Mr. Pradeep Mishra & Mr. Daep Kumar Dhyani, Advs., for Respondent No. 2 Mr. Raj Kumar, Adv with Mr. S.L Gundli, SLO Adv. for Respondent no. 3, Ms. Savitri Pandey & Ms. Azma parveen, Adv. for Respondent No. 5

ORDER/JUDGMENT

PRESENT :

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)

Hon'ble Dr. D.K Agrawal (Expert Member)

Hon'ble Prof. A.R. Yousuf (Expert Member)

Dated 9th November, 2015

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE M.S. NAMBIAR (JUDICIAL MEMBER):

1. The respondent distillery unit, Daurala Sugar Works is located at Daurala in Meerut District of State of Uttar Pradesh. The unit is involved in the production of rectified spirit, extra neutral alcohol and anhydrous alcohol. The total installation production capacity of the unit is 150 KLD. Consent was granted only for production of 80 KLD. The Central Pollution Control Board (herein after referred to as CPCB) finding that the respondent unit is generating substantial quantity of effluent and discharge it into the drain which ultimately meets river Kali, issued a direction under Section 5 of the Environmental Protection Act, 1986 vide letter dated 04.11.2003. Clarification letters dated 5th December, 2003 and 9th February, 2004, were submitted by the industry. After considering them and hearing the Vice President, Executive Director and Chemist of the industry, CPCB issued direction under Section 5 of the Environmental Protection Act, 1986, dated 23rd April, 2004 where under the industry was directed to restrict the operations of fermentation of molasses and distillation of alcohol at 80 KLD, and the distillery not to operate during July to September every year providing that operation of the distillery shall not exceed 270 days per year. Industry was also directed not to dilute the spent wash before treatment in bio-methanation. The industry was directed to utilize treated and diluted effluent equivalent to 42 KLD alcohol production for ferti-irrigation as per the protocol. The

industry was also directed not to discharge treated effluent from lined lagoon, even during rainy season and achieve 100% utilization of spent wash i.e. 47% for making bio-compost and 53 % for ferti-irrigation with effect from 31st December, 2005. The industry was also informed that production of alcohol at the full capacity of 150 KLD will be considered only after the installation of reverse osmosis and multiple effect evaporator so that additional effluent generated may be utilized in compost making.

2. A team of the scientist from the CPCB and Uttar Pradesh Pollution Control Board (herein after referred as UPPCB) conducted a joint inspection on the industry on 29th April, 2015. It was found that since 2004, the industry was producing 80 KLD rectified spirit, Extra Neutral Alcohol & Anhydrous Alcohol, though the installed production capacity is 150 KLD. On analysis of the effluent collected from outlet from ETP, final treated and diluted spent wash and ground water (hand pump from the bio-compost field), it was found that the pH of final treated and diluted spent wash is 07.93, BOD is 1408 mg/I, COD is 3112 mg/I and TSS is 542 mg/I. The system for dilution of treated effluent required for ferti-irrigation is noted as “dilution lagoon has been provided. Secondary treated effluent is diluted with treated sugar factory effluent and with once through used cooling water of distillery and designed to use for ferti-irrigation”.

The following observations were made based on the said findings:

- i. *“The unit is involved in the production of rectified spirit, extra neutral alcohol and anhydrous alcohol.*
- ii. *The installed production capacity is 150 KLD, though the consented capacity of the unit at present is 80 KLD.*
- iii. *The unit meets its water requirements through 3 tube wells.*
- iv. *The unit has installed a primary pre-setting tank from where the effluent is sent to 3 digesters with total capacity of 20,000 kl (1 with capacity 4000 m³ and 2 with 8000 m³. The effluent is then sent to a reverse osmosis plant with capacity of 330 kl as against the total spent wash generation of 800 KLD, from where it is sent to lagoon and then for bio composting. The RO permeate is being used in the sugar ETP. The RO reject goes to the lagoon. The remaining effluent which is not treated in the RO is sent to the lagoon directly as informed by the management.*
- v. *The unit has 4 lagoons of total 55500 kl storage capacity and a bio composting area of 17.5 acres which is adequate to utilize the spent wash generated at the 38 KLD production capacity.*
- vi. *The unit has also installed an ETP which consists of a primary clarifier, 2 aeration tanks each having 4 fixed aerators with 25 HP and a secondary clarifier from where the effluent is diluted and stored in lagoons after which it is sent for ferti-irrigation. The final effluent and diluted spent wash having a pH-7.93, BOD- 1408 mg/I, COD-3112 mg/I and TSS-542 mg/I is being used for ferti-irrigation. However, no ferti-irrigation is being carried out since last two months as informed by the management.*
- vii. *The unit needs to provide RO of adequate capacity for management of spent wash generated when the unit is running at its designed capacity.”*

The joint inspection team gave the following recommendations:

- i. The industry may be restricted to operate 38 KLD total production of alcohol following the directions issued by CPCB under Section 5 of E (P) Act, 1986 dated 23rd April, 2004.*
- ii. Use of spent wash for ferti-irrigation may be discontinued with immediate effect.*

3. By letter dated 21.05.2015, the industry informed the CPCB as well as the UPPCB that by letter dated 23.04.2004, the industry was permitted to undertake ferti-irrigation and that permission is still valid and in the report submitted by the Principal Scientific Advisor to the Government of India in the year 2014 ferti-irrigation is indeed considered desirable and the industry has been undertaking ferti-irrigation under the monitoring of Indian Agricultural Research Institute Haryana Agricultural University, Hissar, who have been monitoring the soil condition as well as the ground water, and no adverse comments have been given till date and as permission for ferti-irrigation was granted industry has invested huge amount in the infrastructure including laying about 25 kms of pipeline and if for some reasons ferti-irrigation is discontinued, it would be difficult to implement the same. It was also pointed out that in such a case, out of the distillery production molasses would over flow as there is limited demand for molasses. It was also pointed out that consequent to the direction of the CPCB dated 24th February, 2015 to the UPPCB, the latter in turn issued the direction and consequently the industry have agreed to put up multi

pressure distillation system with inbuilt evaporators by March 31, 2016 and after its installation and commissioning they would be in a position to reduce or eliminate ferti-irrigation because of the lower generation of spent wash. They, therefore, sought permission to continue ferti-irrigation at least up to March 31, 2016. Based on the report submitted by CPCB, notice was issued to the Respondent industry. Respondent appeared and contended that ferti-irrigation is not harmful.

4. In view of the contention of the industry that ferti-irrigation is not harmful and instead advantageous and the stand of the CPCB to stop ferti-irrigation, the Ministry of Environment and Forest and climate change was directed by the Tribunal to come out with a specific stand as to the impact of ferti-irrigation with spent wash, by order dated 26.05.2015. The CPCB and the UPPCB were also directed to carry out a Joint Inspection of the unit and collect samples of water and spent wash and ascertain their quality and to submit a report.
5. Pursuant to the direction, the Joint Inspection Team inspected the industry on 03rd June, 2015 and submitted the report dated Nil. The report shows that though consent was for production of 80 KLD, the industry is presently operating at 20 KLD or 40 KLD. The analysis of the effluent calculation at the outlet from ETP before dilution is pH 7.87, BOD 251 mg/l, COD 1194 mg/l, TSS 206 mg/l and TOS 2298. The result of analysis of the outlet after dilution is pH 7.55, BOD 78 mg/l,

COD 414 mg/l, TSS 84 mg/l and TDS 1310. The analysis at the ferti-irrigation point is pH 7.64, BOD 72 mg/l, COD 510 mg/l, TSS 136 mg/l and TDS 1442. The information regarding ferti-irrigation are as follows:

Information regarding Ferti-irrigation-

1.	Details of treatment of spent wash (details of bio methanation, primary and secondary treatment)	Acid phase digester for bio methanation, anaerobic filters followed by three stage aeration system, clarifiers, ferti-irrigation lagoon.				
2.	Command area for irrigation (available land area)	Total cultivation area-150000 acres Under ferti-irrigation- 7500 acres				
3.	System for dilution of treated effluent required for ferti-irrigation	Once through process water				
4.	System of transportation of treated effluent up to field.	Through pipeline network				
5.	Formal agreements with farmers for using treated effluent	Yes				
6.	Storage facility available for treated effluent during low demand period	provided				
7.	Quality of effluent being used for ferti-irrigation	pH	BOD (mg/l)	COD (mg/l)	TSS (mg/l)	TDS
		7.64	72	510	136	1442
8.	Ground water monitoring network	By HAU, Hissar as per protocol				

The following are the observations made:

- i. The unit is involved in the production of rectified spirit, extra neutral alcohol and anhydrous alcohol.
- ii. The installed production capacity is 150 KLD, though the consented capacity of the unit at present is 80 KLD.
- iii. The unit meets its water requirements through 3 tubewells. (110 kl/hr)

- iv. The unit has installed a primary pre-settling tank from where the effluent is sent to 3 digesters with total capacity of 20,000 kl (1 with capacity 4000 m³ and 2 with 8000 m³). The effluent is then sent to a reverse osmosis plant with capacity of 330 kl as against the total spent wash generation of 800 KLD, from where it is sent to lagoon and then for bio composting. The RO permeate is being used in the sugar ETP. The RO reject goes to the lagoon. The remaining effluent which is not treated in the RO is sent to the lagoon directly.
- v. Analysis result of outlet of ETP indicates that pH and TSS are within prescribed limits whereas BOD-78 mg l⁻¹ and COD- 414 mg l⁻¹ and therefore spent wash is used for bio compost and for ferti-irrigation.
- vi. Ground water analysis results indicate that heavy metal copper was detected ranging from 0.03-0.36mg l⁻¹ but below the minimum threshold limit presented by BIS. COD was detected at all the location from where ground water was collected except Hand pump near Chirori road and from hand pump from bio-compost near lagoon. At two locations turbidity was detected with the unit 02.
- vii. The unit has 4 lagoons of total 55500 kl storage capacity and a bio-composting area of 17.5 acres which is adequate to utilize the spent wash generated at the 38 KLD production capacity. However, at the time of inspection all the four lagoons were filled to more than 50 % capacity.
- viii. The unit has also installed an ETP which consists of a primary clarifier, 2 aeration tanks each having 4 fixed aerators with 25 HP and a secondary clarifier from where the effluent is diluted and stored in lagoons after which it is sent for ferti-irrigation. The final effluent and diluted spent wash having a pH-7.64, BOD- 72 mg/l, COD-510 mg/l and TSS 136 mg/l is being used for ferti-irrigation. However, ferti-irrigation requires to discontinue with immediate effect keeping the understanding that it pollute the land environment.
- ix. The unit needs to provide RO of adequate capacity for management of spent wash generated when the unit is running at its designed capacity.

Based on the findings and observations, the Joint Inspection team recommended the following:

- i. Use of spent wash for ferti-irrigation may be discontinued with immediate effect as it likely to cause adverse impact on land environment.*
- ii. Control of flies and mosquitoes in bio compost area should be taken into consideration for the villagers residing in that area.*
- iii. The industry may be restricted to operate at 38 KLD total production of alcohol.'*

6. The Respondent industry submitted an objection before the Tribunal dated 01st September, 2015. In the objection, it was pointed out that though the CPCB and the Ministry of Environment and Forest and Climate Change expressed the view that the spent wash cannot be permitted to be used for ferti-irrigation, the usage of spent wash for ferti-irrigation is desirable and beneficial to the use of farmers for agriculture. In support of the said case, it was submitted that the spent wash, that is finally the discharged effluent from Distilleries, is a derivative of molasses, which in turn being a derivative of sugarcane (an agro product) contains many useful nutrients in the form of Nitrogen, Phosphorous, Potassium besides micro-nutrients like iron, zinc, manganese, copper etc., which are extracted by the plant from the soil and hence are beneficial for cultivation of crops. Use of spent wash for ferti-irrigation in the fields also corrects soil imbalance Acknowledging the utility of ferti-irrigation, the MoEF in 2004, recommended the use of spent wash for agriculture purpose so that the nutrients drawn from the soil by the crops are returned back

to the soil. The unit is carrying out ferti-irrigation as per the valid consent/permission of the CPCB. The current consent granted to the unit is valid till 31.12.2015.

7. Raw spent wash is passed through bio-methanation process followed by two stage secondary treatment. The treated effluent is diluted with process water, before it is used for ferti-irrigation. Treated/diluted spent wash meets all the norms for land application prescribed by CPCB/ MoEF. Ferti-irrigation is undertaken by the Unit through a network of approximately 30 kms closed pipelines for which the Unit has made considerable investment. Ferti-irrigation is being carried out by the unit in consultation and under monitoring by Department of Soil Science Haryana Agricultural University. The effect of treated distillery effluent irrigation on soil health, ground water quality and crop were studied by the University from time to time. The monitoring report for the period November 2013 to December 2014, which is annexed to the objection is relied on in support of their contention. No agency including the CPCB or UPPCB reported any adverse effect of ferti-irrigation being carried out by the unit and therefore, there is no justification for the recommendation for discontinuing ferti-irrigation of the unit. The unit is in the process of putting up Multi-Effective Evaporators, for which orders have already been placed. Procurement, installation and commissioning would take some time. Therefore, even if ferti-irrigation is to be discontinued, the industry needs time

up to May 2016 to stop ferti-irrigation as the unit has to set up systems for evaporators/concentration of the spent wash.

8. The Learned Senior Counsel appearing for the industry, the Learned Counsel appearing for the CPCB, the UPPCB and the MoEF were heard. The industry had also submitted a brief written note.

9. The points for consideration are:

- i. In view of the permission granted to the industry by letter dated 23.04.2004 by the CPCB permitting to use spent wash for ferti-irrigation, whether the later direction of the CPCB to stop ferti-irrigation is justifiable.
- ii. Whether the direction of the CPCB to stop usage of spent wash for ferti-irrigation is sustainable especially in the light of the protocol for utilization of distillery effluent for irrigation of agricultural crops, by the CPCB in 2004 as well as in the light of the report of the Principal Scientific Advisor, Government of India, 2014 on “opportunities for green chemist initiative molasses based industry”.
- iii. When the Central Pollution Control Board has granted time till March, 2016 to install and commission the Multi Evaporator (MEE), whether the direction to stop ferti-irrigation before 31st May, 2016 is justifiable.

10. The points (i) to (iii):-

The Report of the Joint Inspection Team, based on the inspection dated 29th April, 2015, establish that from the primary resettling tank the effluent is sent to three digesters with total capacity of 20,000 KLD and thereafter the effluent is sent to Reverse Osmosis plant with capacity of 330 KLD as against the total spent wash generation of 800 KLD. From there it is sent to the lagoon and then for composting. The RO reject is sent to the lagoon. The excess effluent, which is not treated in the RO, is sent to the lagoon directly as informed by the management. The final effluent and diluted spent wash having pH 7.93, BOD 1408 mg/l, COD 3112 mg/l and TSS 542 mg/l is being used for ferti-irrigation. The industry was using water from the tube wells. But no permission was obtained from Central Ground Water Authority. The unit has only 17.5 acres bio-composting area adequate enough to utilize the spent wash generated at the 38 KLD capacity.

Protocol for controlled land application of treated post bio-methanated distillery spent wash as liquid manure under basic requirements provides:

“Any distillery desirous of utilizing the spent wash for pre-sown controlled land application should use treated post bio-methanated spent wash only.

The effluent, to be utilized for one time controlled application after post bio-methanation, shall have a BOD value not exceeding 100 mg/l and Ph should be more than 7.”

The effluent standard notified under Environmental (Protection) Rules, 1986 for treated effluent from distillery is provided under S.No. 15 of Schedule I of the Rules as follows:

S.No	Industry	Parameter	Standards
1	2	3	4
[15.	Fermentation Industry (Distilleries, Maltries and Breweries)		Concentration in the effluent not to exceed milligramme per litre (except for pH and colour & odour)
		pH	5.5-9.0
		Colour & odour	[all efforts should be made to remove colour and unpleasant odour as far as practicable]
		Suspended Solids [BOD 9 3 days at 27°C) -Disposal into inland surface water/river. stream -Disposal on land or for irrigation	100] 30 mg l 100 mg/l

Note-(1) Waste water generation shall not exceed 250 cubic metre per tone of paper produced.

11. The observations in the report submitted on the basis of inspection of 29th April, 2015 reveals that the BOD of the final treated and diluted spent wash being used by the industry for ferti-irrigation was having a BOD of 1408 mg/l as against the permitted limit of 100 mg/l, though subsequent inspection on 03rd June, 2015 by the Joint Inspection team reveals that analysis of the effluent collected at the ferti-irrigation point

was within the prescribed limit as BOD was then only 72 mg/l.

12. The sugar cane molasses based distilleries are among the most polluting industries. Their effluent requires several stages of treatment and dilution before safe disposal. Discharge of distillery effluent into surface water leads to depletion of oxygen and water becomes colored. The effluent also contains nutrients like nitrogen, potassium and phosphorous.

13. Based on a study by Indian Agricultural Research Institute, a project sponsored by MoEF, “protocol for use of distillery effluent for crop irrigation” was developed in 1997. Based on expert’s advice “requirements of compost making with press mud and spent wash” was adopted in 2002. Under the chapter for “Corporate Responsibility for Environmental Protection (CREP)” in 2003 to tackle the pollution problem from distilleries, it was decided to utilize total spent wash by December 2005. It was in the light of the then subsisting protocol, the respondent industry was permitted to utilize 53% of spent wash for ferti-irrigation as per order dated 29th April, 2004 by the CPCB. But later finding that utilizing spent wash for ferti-irrigation was harmful, CPCB decided to stop using spent wash for ferti-irrigation and to go for Zero Liquid Discharge by adopting Multi Effect Evaporators (MEE).

14. It is true that the Report of 2014 by the Scientific Advisor Government of India titled “Opportunities for Green Chemist

Initiatives” shows that a closer examination of the constituents of molasses and spent wash reveals that most of the constituents are carried from molasses. The excess calcium, phosphorus and sulphates are the result of clarification and sulfitation processes used in the sugar production. The rest of the elements come from the sugar cane. The spent wash is rich in potassium, nitrogen and phosphorus which are good for soil. Therefore, efforts must be made to fruitfully utilize the spent wash for agricultural application and suggested controlled applications of the spent wash for irrigation.

15. Though the industry produced the annual report for Nov 2012-Oct 2013, submitted to the industry by the Department of Soil Science, Haryana Agricultural University, monitoring the effect of treated distillery effluents irrigation, on soil health, ground water and crops and the learned counsel argued that application of diluted distillery effluent has improved soil nutrient the phisio-chemical properties and status (nitrogen, potassium, zinc, iron, manganese and copper) especially in surface soil and no adverse effect was noticed in the land, the recommendations therein also shows “spent wash cannot be used, disposed directly on agricultural land. Treated and diluted distillery effluent can be used profitably for ferti-irrigation. However, continuous monitoring of long term use of diluted effluent is essential to maintain crop productivity”.

16. Research article titled “Impact of bio-methanated distillery spent wash application on soil and water quality”, a field appraisal by S. Shenbagavalli, S. Mahimairaja and P. Kalaiselvi of Department of Environmental Science, Tamil Nadu Agricultural University, Coimbatore, published in International Journal of Environmental Sciences, Volume No. 7, 2011, based on the study of spent wash irrigation on lands of Namakkal District of State of Tamil Nadu, shows that samples collected from wells close to the fields which were applied with the bio-methanated spent wash from the distillery of Salem Cooperative Sugar Mills Ltd., were brown in color and the discoloration is due to the effect of spent wash. It was found that from the spent wash applied, organic and inorganic components move down the soil and reach underground water and the brown color is due to the presence of melanoidin, one of the products of sugarmine condensation. So also samples were mostly saline to alkaline in nature with pH variation between 7.95 to 8.60. More than 50% of the samples had high EC making them unsuitable for irrigation, most of the samples had high BoD (350 to 1150 mg/l). Based on the study the following findings were given:

- a. *Most of the ground waters sampled from open wells near spent wash applied fields were brown to dark brown in colour, with high pH (7.9-8.6) and EC(>1.5dSm⁻¹).*
- b. *The water samples contained large amount of salts, particularly K⁺ and Cl⁻ suggesting that the water*

contamination is mainly due to the application of distillery spent wash.

- c. The samples had high BOD far exceeding the maximum permissible limit of Pollution Control Boards.*
- d. Most of the samples, due to contamination of spent wash, were found unsuitable for irrigation purpose.*
- e. The groundwater samples have shown greater potential for salinity hazards than sodicity problem.*
- f. Though no marked evidence was observed on the characteristics of soil collected from spent wash applied fields, the nutrients (N,P,K) and salt (Na, Ca, Mg, Cl and SO₄) contents were relatively higher in these soils)*

17. No doubt, the report of Haryana Agricultural University produced by the respondent gives contra findings. But it is insufficient to brush aside the view taken by the CPCB to stop ferti-irrigation and achieve zero spent wash discharge.

18. We find no material to hold that usage of spent wash from the distillery, for ferti-irrigation is not harmful to the land and environment. Finding the use of spent wash for ferti-irrigation harmful, which was earlier permitted to be used for ferti-irrigation by the protocol, based on the experience and reports, CPCB issued a direction to stop spent wash for ferti-irrigation. Under Section 5 of Environment Protection Act, 1986, notwithstanding anything contained in any other law but subject to the provisions of the Act, the Central Government may in exercise of its powers and performance of its functions under the Act issue directions in writing to any person, officer or any authority and such person, officer or

authority shall be bound to comply with such directions. By Notification S. O. 157E dated 27th February, 1996, MoEF, Govt. of India has delegated the powers vested under Section 5, to the Chairman CPCB, to issue directions. It is in exercise of the said powers, the CPCB issued the direction to discontinue the practice of using spent wash for ferti-irrigation. The MoEF in their wisdom has accepted the stand taken by the CPCB. In such circumstances, in the absence of any reliable material to the contrary, we cannot hold that the stand taken by the CPCB supported by the MoEF, that spent wash cannot be used for ferti-irrigation, is not lawful and cannot be enforced. Therefore, we uphold the recommendation contained in the report of the Joint Inspection team of the CPCB as well as UPPCB dated 29th April, 2015. The objections raised against it by the industry is rejected.

19. The fact that by the protocol issued earlier spent wash was permitted to be used for ferti-irrigation is not a ground to interfere in the later direction issued by the CPCB based on the finding that using spent wash for ferti-irrigation is causing serious pollution. The report "Opportunities for green chemistry initiatives: molasses based distilleries" by the office of Principal Scientific Advisor, Govt. of India is also not a valid ground to interfere with the lawful direction issued by the CPCB. So also we cannot permit the industry to pollute by using spent wash for ferti-irrigation on the ground that CPCB

has granted time till March, 2016 to install and commission the Multi Effect Evaporator (MEE).

20. When the consent was for operating the industry at 80 KLD, as against the installed capacity of 150 KLD, before achieving zero discharge by installation of MEE, the industry can only be directed to restrict its operation by 38 KLD, as provided in the directions issued by the CPCB and the UPPCB. The industry is bound to install the Multi Effect Evaporator (MEE) to achieve zero discharge. In fairness, the industry has already accepted the suggestion and only contended that it would be installed before May 31, 2016. The existing consent granted to the industry is only till 31st December, 2015. The industry cannot be heard to contend that they have to be permitted to pollute till the installation of Multi Effect Evaporator (MEE). The industry could be permitted to operate only on installation and commissioning of the MEE.

21. The materials undoubtedly establish that the industry was earlier discharging the effluent generated into the drain, which ultimately reached river Kali and was thus seriously polluting the land and the river. The said fact stated in the letter issued by the CPCB to the industry dated November 04, 2003 is not contraverted in the objections submitted by the industry. The report submitted, based on the joint inspection on 29th April, 2015, shows that the effluent and diluted spent wash, which was being used for ferti-irrigation, was not within the parameters. As against the BOD of 100 mg/l as provided

in Rule 15 of the Environmental (Protection) Act, 1986 and the protocol, BOD of the treated and diluted spent was 1408 mg/l. The report based on the joint inspection dated 03rd June, 2015 also reveals that the excess of the untreated effluent was also being sent to the lagoon directly. Only 330 KLD of 800 KLD of the total spent wash generated was sent to the reverse osmosis, before sending to the lagoon. The entire balance of 470 KLD was directly sent to the lagoon. It is also clear that the industry was operating in violation of the conditions of consent as it was polluting the land and the environment by discharging the untreated effluent on the land and by using it for ferti-irrigation. Using the untreated effluent of the distillery unit is definitely harmful to the land. The consent to operate granted under the Water Act dated 05.03.2014 shows that consent was only for domestic waste and not for industrial waste. It is also clear that the industry was using water from tube wells and no permission was taken from the Central Ground Authority. There is no doubt that the industry is a seriously polluting industry. As it is proved that the industry was causing serious pollution for all these years, it is absolutely necessary to impose an environmental compensation on the industry. The question then is on the quantum. Considering all the relevant facts including the nature of pollution being caused, the period it was being caused, its adverse effect on the land, the environment and public health we are of the considered view that an

environmental compensation of Rupees one crore (Rs. 1 crore) would meet the interest of justice.

22. In the result, we issue the following directions:

- (a) The respondent industry can be permitted to operate only on installation and commissioning of the MEE.
- (b) The production capacity of the industry is to be restricted to 38 KLD till the installation and commissioning of Multi Effect Evaporator (MEE).
- (c) The industry shall pay an environmental compensation of Rs. One Crore to the Uttar Pradesh Pollution Control Board. Only on payment of the compensation, UPPCB shall permit the industry to re-start its operation. The amount so paid shall be used only for the improvement of the environment of the area in question.

New Delhi,

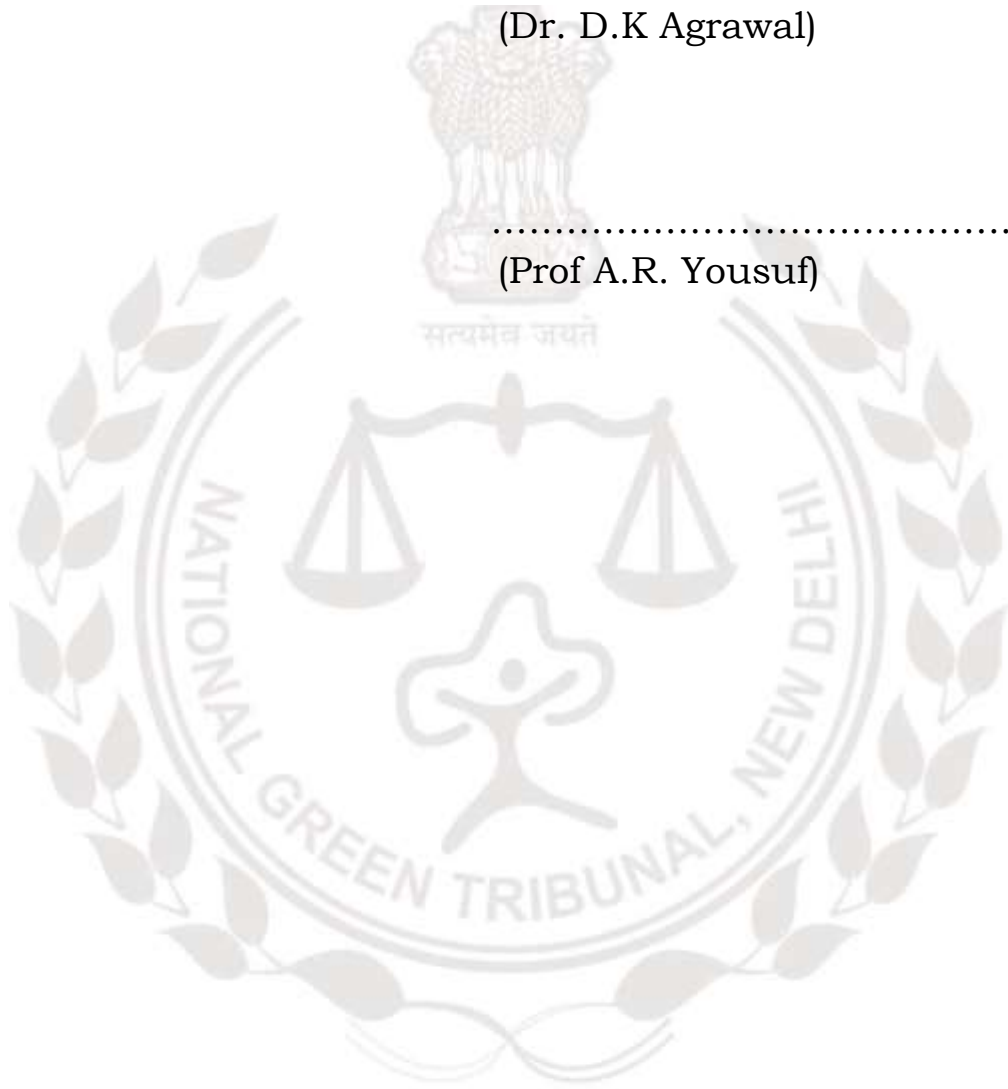
Dated:.....

....., CP
(Swantanter Kumar)

....., JM
(M.S. Nambiar)

....., EM
(Dr. D.K Agrawal)

....., EM
(Prof A.R. Yousuf)



NGT