

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Appeal No. 91/2013

Arjun Agro Foods V/s Punjab PCB & Ors.

CORAM: HON'BLE Mr. JUSTICE Dr. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE Mr. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. DR. P. C. MISHRA, EXPERT MEMBER
HON'BLE PROF. A. R. YOUSUF, EXPERT MEMBER

Applicant / Appellant : Mr. A.R. Thakar, Adv. along with Ms. Saumya Jain, Adv.

Respondent No. 1 : Mr. Shubham Bhalla, Adv.

Respondent No. 2 : Sanyam Saxena, Adv. for Mr. Anil Soni, Adv.

Date and Remarks	Orders of the Tribunal
<p>Item No. 5 November 11, 2013</p>	<p>We heard Learned Counsel appearing for the Appellant Mr. A.R. Thakar and Learned Counsel appearing for the Punjab Pollution Control Board as well as Learned Counsel appearing for the State of Punjab.</p> <p>Learned Counsel appearing for the Appellant would rely upon the order passed by the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 22494/2010 in respect of a similarly situated rice mill called "<i>M/s. Jai Rice and General Mills Vs. State of Punjab and Anr.</i>" In that case the distance between the road and the rice mill was stated to be 91 meters while the distance criteria contemplated is a minimum 500 meters between the road and the industry which is located in the area. In the order of the Hon'ble High Court of Punjab and Haryana at Chandigarh relying upon an Expert Committee report which in turn has reported to the Hon'ble High Court that no pollution is caused in respect of that unit, the Court has allowed the said unit to be permitted by the State Government by way of granting relaxation to the criteria. Therefore, according to the Learned Counsel for the Appellant, there is no reason for the Government not to follow the same criteria in respect of Appellant's unit also. He would submit that the Appellant's unit is functioning on the Japan technology and there is absolutely no pollution and according to him, from the actual site of the unit where the chimney</p>

is situated and the road there is more than 100 meters distance. However, it is undisputed that between the road and the boundary of the unit it is not meeting with the criteria. In such view of the matter, his contention is that there cannot be arbitrary discrimination by denying certain benefits which has been given to a similarly situated unit.

Therefore, we direct the State of Punjab to file its report as to why such discretion is not exercised in respect of the present unit. The State Government shall also study the effect of environmental damages which are likely to be caused by exercising such exemption powers. If it is considered necessary, it is for the State Government to appoint necessary Expert Committee to study as it has been done in the case decided by the Hon'ble High Court of Punjab and Haryana at Chandigarh in M/s. Jai Rice and General Mills Vs. State of Punjab and Anr. The Punjab Pollution Control Board shall also in the meantime file its report.

Learned Counsel appearing for the Punjab Pollution Control Board (PPCB) would submit that the PPCB, in fact, has taken a decision to permit the Appellant's unit to run for three (3) years and thereafter, shift the unit to some other place on the basis of the violation of the criteria.

The State Government as well as the Punjab Pollution Control Board shall also make thorough study when the unit is operational in its full capacity.

Needless to state that in order to permit the Appellant's unit to function, the PPCB shall immediately restore the electricity connection.

Stand over to 18th December, 2013.

....., JM
(Dr. P. Jyothimani)

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

....., EM
(Dr. G.K. Pandey)

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

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

