

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

**REVIEW APPLICATION NO. 39/2015  
IN  
APPLICATION NO. 35/2013 (THC)  
AND  
ORIGINAL APPLICATION NO. 70/2016**

**In the matter of:**

**GURCHARAN SINGH MATHARU**

435, Rajiv Gandhi Nagar,  
Kota, Rajasthan.



**APPLICANTS**

**Versus**

- 1. PARMINDER SINGH, S/O PRITAM SINGH**  
Balad Kalan Village, Bhawanigarh  
Tehsil, Sangrur District.
- 2. HOSHIAR SINGH, S/O HARBHAJAN SINGH**  
Toori Village, Bhawanigarh Tehsil,  
Sangrur District.
- 3. NARINDRE SINGH, S/O INDER SINGH**  
Balad Kalan Village,  
Bhawanigarh Village, Sangrur District.
- 4. SURJIT SINGH, S/O HARNEK SINGH**  
Bhavangarh, Sangur District.
- 5. RANJIT SINGH, S/O SATPAL SINGH**  
BaladKooti Village, Bhavangarh Tehsil,  
Sangur District.
- 6. ANGREJ SINGH, S/O SURJIR SINGH**  
Toori Village, Bhavanigarh Tehsil,  
Sangrur District.
- 7. HARNEK SINGH, S/O GUJJAR SINGH**  
Sarpanch, Gram Panchayat Toori,  
Toori Village, Bhavanigarh Tehsil,  
Sangrur District.
- 8. JAGNAHAR SINGH, S/O NIKKA SINGH**  
Toori Village, Bhavanigarh Tehsil,  
Sangrur District.

- 9. PARAMJIT SINGH, S/O SHARAN SINGH**  
Toori Village, Bhavanigarh Tehsil,  
Singrur District.
- 10. SUKHWINDER SINGH, S/O MOHINDER SINGH**  
Toori Village, Bhavangarh Tehsil,  
Singrur District.
- 11. PUNJAB POLLUTION CONTROL BOARD**  
through its Chairman, VatavaranBhawan,  
Nabha Road, Patila.
- 12. ENVIRONMENTAL ENGINEER,**  
Punjab Pollution Control Board,  
Through its Regional Office,  
Sanrur District, Sangrur.
- 13. ASSISTANT ENVIRONMENTAL ENGINEER,**  
Punjab Pollution Control Board,  
through its Regional Office, Sangrur District, Sangrur.
- 14. M/S MAHALAXMI ORGANOCEM INDUSTRIES**  
Nabha Road, Teshil Bhanvanigarh, District Sangrur  
Thru. Shri. Chander Shekhar Dhawan.
- 15. CHANDER SHEKHAR DHAWAN,**  
Director, M/S MatharuSteels Pvt. Limited,  
Resident of 110-A, Sarabha Nagar, Ludhiana.
- 16. SUNIL AHUJA,**  
Director of M/S Matharu Steels Pvt. Limited,  
Resident of E-14, Sector-14, Noida, U.P.
- 17. TARA SINGH, S/O SWARAN SINGH.**  
Village Nauhra, Nabha, Patiala Distict.
- 18. CENTRAL POLLUTION CONTROL BOARD**  
Represented by the Member- Secretary,  
New Delhi.

--- **RESPONDENTS**

**AND**

**1. PARMINDER SINGH & ORS**

--- **APPLICANTS**

**VERUS**

**1. PUNJAB POLLUTION CONTROL BOARD & ORS**

-----**RESPONDENTS**

**Counsel for Applicants:**

Ms. Mala Narayan and Mr Shashwant Goel and Mr. Siddharth  
Menon and Mr. Sunil Gupta Advs.

**Counsel for the Respondents:**

Counsel for C.P.C.B. Mr. Raj Kumar Adv. With Mr. Bhupinder Kr. L.A.

Counsel for PPCB: Mr. Narnder Benipal, Adv. With Mr. Harjeet Singh Environmental Engineer

**Present:**

**HON'BLE MR. JUSTICE SWATANTER KUMAR (CHAIRPERSON)**

**HON'BLE MR. JUSTICE U. D. SALVI (JUDICIAL MEMBER)**

**HON'BLE MR. BIKRAM SINGH SAJWAN (EXPERT MEMBER)**

**O R D E R**

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**Reserved on: 20<sup>TH</sup> December, 2016**

**Pronounced on: 6<sup>th</sup> July, 2017**

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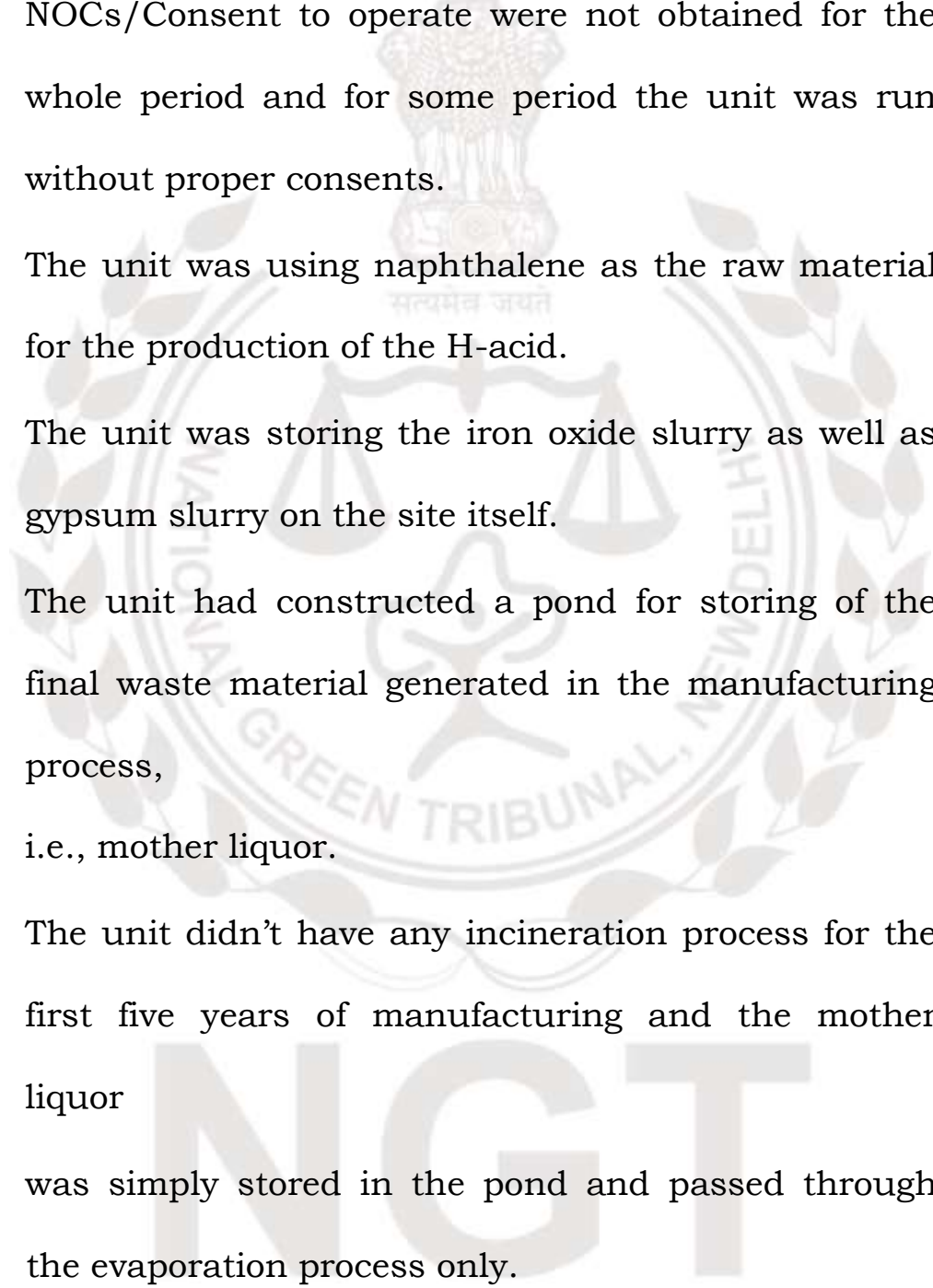
1. This Review Application has been Preferred against the Judgment and Order dated 23<sup>rd</sup> September, 2015 passed in O.A.No.35 of 2013 whereby the Respondent No-9 Gurucharan Singh Matharu, Director of Matharu Chemical Industries along with other Respondent industrial units and their Directors have been declared to have polluted the air, land and water including groundwater by their industrial activities and produced and stored hazardous waste unauthorizedly without any proper disposal, and were further directed to contribute towards the cost of remediation of the problem in addition to cost.

2. We have heard the parties to the Review Application and considered the record of the case.

3. Broadly, the Applicant contends that the Tribunal ignored the fact that no case has been made out against the Review Applicant Gurucharan Singh Matharu as entire right, title, interest was transferred to new management vide an

agreement dated 28-03-2003; and he was only one Director of the Company from 1991 to 2003 during which the industry has operated in accordance with the consent to operate granted by Punjab Pollution Control Board.

**4.** Perusal of the Judgment reveals that we did consider the submissions made by the Review applicant particularly, his contention vide reply affidavit dated 19<sup>th</sup> November, 2013 that he was associated with the industrial unit as one of the Director of the unit only upto March, 2003 and during this period (1999-2003) he was meticulous to ensure that all the relevant approvals and consents relating to the various environmental laws were valid at all times and were renewed from time to time after final inspection of the concerned Department and at the time of transfer of the said company all the records including licenses/NOCs under the relevant environmental laws were handed over to the new owners/management of the said manufacturing unit. We also took into consideration various analysis reports, particularly, in relation to the groundwater and four Status Reports, TCIRD Report of 2011, CPCB Report of 2013, CPCB Report of 2014 and CSIR-NEERI Report of 2014 and submissions made by the rival parties at different stages of the case first before the Hon'ble High Court of Punjab and Haryana at Chandigarh and later before us and could arrive at composite collation of the facts as follows:

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- a.** The industrial Unit was running for almost fourteen years (to be precise, 13 years and 8 months, i.e., from July 1991 to February 2005) at the site.
- b.** The unit had obtained the requisite permission for the establishment of the said industrial unit. However, NOCs/Consent to operate were not obtained for the whole period and for some period the unit was run without proper consents.
- c.** The unit was using naphthalene as the raw material for the production of the H-acid.
- d.** The unit was storing the iron oxide slurry as well as gypsum slurry on the site itself.
- e.** The unit had constructed a pond for storing of the final waste material generated in the manufacturing process, i.e., mother liquor.
- f.** The unit didn't have any incineration process for the first five years of manufacturing and the mother liquor was simply stored in the pond and passed through the evaporation process only.
- g.** The solid waste left over after incineration process was stored in a tank covered by tin shed.
- h.** Except for a small quantity of gypsum, which was sold to some third party, gypsum as well as iron oxide remained dumped on the site. There is no record to



show that the gypsum and iron oxide has been disposed of properly or shifted to any other place when the unit was dismantled and the land previously occupied by the unit was put to agriculture.

- i.** The industrial unit closed in March, 2005 and later on dismantled completely and even the shed covering the hazardous waste was dismantled, leaving the hazardous wastes exposed to the vagaries of the weather at least for four years (March, 2005 – August 9, 2009).
- j.** The estimate provided by the TCIRD regarding the quantum of raw materials used, product and by-products as well as waste materials produced have not been questioned by any party, including the expert engaged by Respondents 4 - 7.
- k.** The calculations made by the TCIRD have revealed the utilization of less than 40% of the naphthalene processed for the manufacture of H-acid. This leads to the inference that about 60% of the unutilized naphthalene remained either in the mother liquor and/or got mixed with the iron oxide and gypsum slurry.
- l.** The incinerated ash, which was stored in the ash pond got ultimately shifted to TSDF facility at Nimbua during 7<sup>th</sup> – 9<sup>th</sup> August, 2008 and as such remained without any cover for the period January, 2006 –

August, 2008, as the dismantling of the sheds was first noticed on 2<sup>nd</sup> January, 2006 by PPCB.

**5.** We noticed that:

“the unit didn’t have NOC/consent to operate for the period from July, 1991 (start of manufacture) to 6.10.1993 and again from 1.10.1994 to 17.10.1995 under Water Act. Similarly it didn’t have permission for the period from July, 1991 to 1.2.1994 and again from 1.7.1994 to 7.10.1997 under Air Act. The unit didn’t have permission to store the Hazardous wastes for the period from July, 1991 to 5.5.1997, from 19.3.1999 to 22.4.2002, from 23.4.2004 to 4.8.2004 and from 5.8.2005 to 7.8.2008 under Hazardous Wastes Rules. So, it is quite evident that the industrial unit violated the Air Act, Water Act as well as Environment Protection Act during the periods mentioned above.

It was also noticed that even when the consent was placed before the Authority concerned the Industrial Unit in question was issued a show cause notice on 5<sup>th</sup> April, 2004 by Environmental Engineer, PPCB.

**6.** According the TCIRD report, the profile of the salt level (sum of iron, sodium, sulphate, nitrate and chloride) in the groundwater indicates that the groundwater has been contaminated by the following two sources.

i. Percolation and leaching of contaminants from the onsite solid/hazardous waste storage and disposal and from the solar evaporation ponds.

ii. Direct injection of wastewater into the groundwater at 150ft depth (liquor discarded in the H-acid manufacturing step 11 after filtration recovery of the sodium salt of H-acid appears to be the wastewater discharged into the groundwater through direct injection).

TCIRD concluded that the contribution to the ground water pollution by the percolation/leaching from the solid /hazardous waste storage tanks and from the solar evaporation ponds is relatively lesser and the ground water pollution is mainly from the direct injection of wastewater into the groundwater (which was apparently discontinued by 2005). Total salt level in the top layer of the groundwater (1435mg /L at 105ft depth) is higher than that at 120ft depth (1133mg/L). This could be because of the contributions through percolation and leaching from the overburden soil, the solar evaporation ponds and from the solid/hazardous waste storage. Beyond 120ft depth, the total salt levels are increasing up to 140ft depth (to 3178mg/L) and then decreasing (2012mg/L at 160ft). The latter might be from the direct injection of the wastewater might be at 140 – 150ft depth. As per the CPCB July 2013 report, during the field survey, it was observed that the



colour of surface soil was red at many places within the premises of the closed industrial unit. Soil of black colour was found at 4 feet depth near the so called solar evaporation pond. It was found that black liquor was present at the depth of 5 feet near the site of solar evaporation pond which depicts that leftover industrial process waste is still lying there.

**7.** We, therefore, recorded the finding that the environment got affected grossly by the lethargic attitude of the Project Proponent and on account of an approach in respect of handling of hazardous waste in face of the facts noticed by us.

**8.** The Review Applicant Gurucharan Singh Matharu mainly contends that his role as a Director of the Company came to an end in the year 2003 and the manufacturing activity during his tenure as a director was conducted with due consents/approvals, the copies of which he seeks to produce now; and there was nothing to point out any action/inaction on his part which could have led to any pollution as alleged.

**9.** Pertinently, we had taken into consideration the role of the Review-Applicant Mr. Gurucharan Singh Matharu, director of Matharu Steel Pvt. Ltd till 2003 and as a director of Matharu Chemical Industries since 1991. We had also considered his specific contentions that he had sold his rights in the Company to 6<sup>th</sup> Respondent under an agreement dated 28.3.2003 and, therefore, the vendee should take up the responsibility. We

categorically observed that the Review Applicant cannot disown his obligations by merely transferring his right in the unit, and the groundwater was continued to be polluted ever since the date of their industrial activities from 1991 onwards. We had given a thought to sensitivity of FTIR method in detection of sulphonated phenolic compounds as compared to routine APHA method and to the fact that sulphonated phenolic compounds imparted reddish brown colour to water pumped out of the tube well installed in the premises of the unit in absence of any iron therein.

**10.** Assuming that the industry duly enjoyed consents/approvals during the tenure of the Review Applicant as a director of the said Company and the consents showed that the periodic test of groundwater carried out by the Pollution Control Board were found to be in order, nowhere do we find any whisper about the groundwater being tested during the said period by a sensitive test like FTIR method, which could give clear answer and explain reddish brown colour of the groundwater pumped out through the tube well in the premises of the said industry in absence of iron therein. Needless to state that, increase or decrease of contaminants in the groundwater is gradual over a passage of time and its presence became manifest with the sensitive FTIR method. The fact remains that presence of contaminant like sulphonated phenolic compounds in the groundwater can be attributed to Koch cake fusion stage in manufacturing of H-Acid (Pg. 56-57) and the responsibility lies

on all those responsible for the operation of industry to show that their activity was/is benign to the environment.

**11.** No mistake or error apparent on the face of record so as to enable the conclusions as solicited by the Review Applicant can therefore be perceived in passing of impugned order from the record before us and we will have to traverse beyond the jurisdiction conferred upon us by law as a Revisional Forum and exercise the appellate jurisdiction, which we are not ordained by law to do while exploring any mistake or error in the present case.

We, therefore, reject this Application with no order as to costs.

**Justice Swatanter Kumar**  
**Chairperson**

**Justice U. D. Salvi**  
**Judicial Member**

**Mr. Bikram Singh Sajwan**  
**Expert Member**

**New Delhi**  
**6<sup>th</sup> July, 2017**

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