

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

**CIRCUIT BENCH AT JODHPUR**

**Original Application No. 438 (THC)/2013  
(CWP No. 3023 of 2011)**

**M/s Shiva Recycling Energy Vs. Raj. S.P.C. B. & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER  
HON'BLE PROF. (DR.) P.C. MISHRA, EXPERT MEMBER  
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER**

**Present : Applicant : Appearance not given**

**Respondents : Mr. Manish Shishodia, Adv. for SPCB**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Supplementary Item No. 13 March 7, 2014</b>	<p>We have heard learned Counsel appearing for the parties.</p> <p>The State Pollution Control Board (SPCB) has filed its affidavit and annexed the inspection report. The inspections were surprise as well as upon notice on 01.01.2014 and 02.01.2014.</p> <p>The learned Counsel relied on the inspection report, which points out various deficiencies in the functioning of the plant of the Applicant. Analysis reports (4) have been placed on record. Samples have been collected by the Board at the time of inspections conducted on 01.01.2014 and 02.01.2014 and analyzed at the State Laboratory. All these reports show that the Applicant is violating the prescribed parameters and is causing emissions in violation to the prescribed standards. This obviously means that the industry is a seriously polluting industry.</p> <p>Learned Counsel appearing for the Applicant has filed an affidavit and has stated before us that only one inspection</p>

was conducted by the Board. We do not find this argument sustainable in law. The Board is a statutory body and is manned by the efficient officers. They have conducted inspections and prepared the reports. We see no reason to accept the contention raised on behalf of the applicant.

Learned Counsel appearing for the Applicant submits that he had got samples from one M/s. R.K. Consultants and the analysis report shows that the parameters are within prescribed standards. This is an evidence procured by the applicant in his own favour. We cannot rely on this report. We do hereby reject the said contention.

However, keeping in view of the inspection report and analysis report, the Tribunal is left with no option but to direct shutting of this unit forthwith.

While directing and injuncting the unit from operating, we will grant another opportunity to the industry to comply with all the deficiencies pointed in the inspection report and thereupon inform the SPCB for conducting fresh inspection. The Board shall conduct inspection, with notice. During the inspection two samples shall be collected by the Board and one shall be analyzed in the State Laboratory while the other can be sent to one of the recognized laboratory of the Board.

Inspections shall be conducted again, one surprise and the other upon notice in the first week of April.

If upon such inspection, the Board finds the analysis report to be within normal parameters and the industry is found to be non-polluting, the Board may permit the industry to function and carry on its business in accordance with law. If the reports are found to the contrary and are adverse to the prescribed norms, the industry would not be permitted to function thereafter.

The industry would operate only in the first week of April, 2014 for the limited period of one week, subject to the above conditions.

With the above direction, the petition is disposed of. Parties to bear their own costs.

.....,C.P.  
(Swatanter Kumar)

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

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

.....,EM  
(Dr. R.C. Trivedi)

