

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

Appeal No. 25/2017(CZ)

1. Shri Prasoon Kumar S/o Late Shri Surendra Narayan
Age 71 years,
R/o 9-B, Industrial Area,
Rawabhata, Post – Birgaon,
Raipur (Chhattisgarh)

.....Appellant

Versus

1. Chhattisgarh Environment Conservation Board,
Through its Regional Officer (R.O.),
Office at Kabir Nagar,
Raipur
2. The Executive Engineer,
Public Health Engineering Department
Raipur Department,
Raipur (Chhattisgarh)
3. The Collector,
Office of Collectorate,
Raipur (Chhattisgarh)

.....Respondents

COUNSEL FOR APPELLANT:

Mr. Om Shankar Shrivastav, Adv.
Mr. Dharamvir Sharma, Adv.

COUNSEL FOR RESPONDENTS:

Ms. Parul Bhadoria, Adv. for CGECB
Mr. Rohit Sharma, Adv. on behalf of Mr. Siddharth Chouhan, Adv.
for PHED & Collector, Raipur

JUDGEMENT

PRESENT:

Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)
Hon'ble Dr. Satyawan Singh Garbyal (Expert Member)

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?

DR. SATYAWAN SINGH GARBYAL, (EXPERT MEMBER)

1. The present Appeal No. 25/2017 has been filed by the Appellant against the closure directions issued on 29.06.2017 by the respondent no. 1 / Chhattisgarh Environment Conservation Board under Section 33 (A) of Water (Prevention and Control of Pollution) Act, 1974. It has been submitted that chemical industry of the appellant which was running with required consent granted in 1995 under Water Act which was being renewed regularly and the latest renewal of consent was granted on 6th May, 2014, which was valid until 31st October, 2017 (Annexure- 5).
2. The Learned Counsel for the Appellant has stated that a notice was received on 29th May, 2017, under Section 33 (A) of Water (Prevention and Control of Pollution) Act, 1974, wherein it was stated that during the inspection of the unit on 17th May, 2017 by the officials of Chhattisgarh Environment Conservation Board following facts were observed :
 1. *The drainage system of settling tank was found damaged, which shows that the industry*

has failed to operate & maintain the pollution control facility regularly.

2. *House keeping inside the plant was very poor.*

3. As the industry was not found by Chhattisgarh Environment Conservation Board to be complying with the conditions of the consent of the Board in accordance with the Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974, they proposed to direct the unit to close the industry forthwith and also proposed to direct the concerned authorities to disconnect supply of electricity, water and other facilities provided to the unit. The unit was given an opportunity of hearing and making representation within 15 days.
4. Subsequently, the unit of the appellant received a closure direction on 29th June, 2017 under Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 from Chhattisgarh Environment Conservation Board, wherein it was stated that the analysis report of the water samples collected and analysed by the office of the Executive Engineer, Public Health Engineering Department (PHED) from the bore well situated nearby their unit showed that the pH value was below stipulated norms and thus the sample water was found to be polluted. Therefore, the appellant was directed to close the industry forthwith and the concerned authorities were also directed to disconnect

the supply of electricity, water and other facilities provided to the unit with immediate effect.

5. It has been submitted by the respondent no. 1 / Chhattisgarh Environment Conservation Board that the joint team of Chhattisgarh Environment Conservation Board and Public Health Engineering Department inspected the premises of the Appellant on 17th May, 2017. The inspection note prepared on the spot in presence of the industry representatives is given as Annexure R- 4. It has also been submitted that the water sampling was carried at 35 locations in the industrial area and a show cause notice was issued to the appellant industry on 29th May, 2017, informing the shortcomings found during the inspection. A copy of the notice dated 29th May, 2017 is enclosed as (Annexure R-05). After the inspection of the unit of the appellant, the appellant informed the Chhattisgarh Environment Conservation Board on 5th June, 2017 that required repair work which was found to be wanting during inspection on 17th May, 2017 had been carried out. The inspection was again carried out on 23rd June, 2017 by the officers of the Chhattisgarh Environment Conservation Board, and during the inspection, industry was found to be closed and work of repair of settling tank and improvement of house-keeping was found have been carried out. In other words, the shortcomings pointed out in the notice of 29th May, 2017 by the officials of the Chhattisgarh Environment

Conservation Board were found to have been rectified. The Learned Counsel for the respondent no.1 / Chhattisgarh Environment Conservation Board has further submitted that based on a letter received from the Public Health and Engineering Department dated 23rd June, 2017, which was received on 29th June, 2017 indicating that the water monitoring was carried out at 35 locations and the value of pH was found to be acidic at 5 locations. Therefore, looking at the gravity and sensitivity of the matter the answering respondents directed closure of the Appellant industry vide letter dated 29th June, 2017.

6. The Learned Counsel for the appellant submitted that the reasons for acidity in the water samples could not be attributed to the unit of the Appellant as the water samples collected and analysed were from the bore wells situated nearby their unit as has been mentioned in the closure directions given on 29th June, 2017. In fact they did not take water samples from the bore well which is present in the premises of the unit itself. The Learned Counsel for the Chhattisgarh Environment Conservation Board admits that samples were not taken from the bore well of the Appellant's unit.
7. In view of the facts and circumstances mentioned above, we find that the shortcomings mentioned in the original notice given to the unit on 29th May, 2017 had been fully rectified as has been mentioned in the inspection note and

submissions made by Learned Counsel for respondent no. 1 / Chhattisgarh Environment Conservation Board and that the closure directions issued on 29th June, 2017 is based on the analysis report of the water samples taken from the bore wells which are situated in the nearby units of the Appellant and not from the bore well of the Appellant unit itself.

8. In the light of the above, we set aside the closure order issued by Chhattisgarh Environment Conservation Board on 29th June, 2017, under Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 which was based upon the assumption that the acidity in the water is as a result of the operation of the unit. We, however, direct the respondent no. 1 / Chhattisgarh Environment Conservation Board to take fresh samples of water from the bore well of Appellant's unit and based upon the analysis report, act in accordance with law.
9. In view of the above, this appeal is **dismissed**. M.A. 378/2017 filed for condonation of delay stands disposed of.

JUSTICE RAGHUVENDRA S. RATHORE
JUDICIAL MEMBER

DR. SATYAWAN SINGH GARBYAL
EXPERT MEMBER

Bhopal
November 28th, 2017