

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

**Original Application No. 130 of 2016
(M.A. No. 916/2016, M.A. No. 852/2018 & M.A. No. 1065/2018)**

In the matter of :-

Social Action for Forest & Environment (SAFE)

Vs.

Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: **Applicant:** Mr.Sanjay Upadhaya, Mr. SaumyaChaudhari, Ms. UpamaBhattacharjee and Ms. Saumitra Jaiswal, Advs.
Respondent Nos. 2,3,4&14: Mr. B.V. Niren and Mr. Vinayak Gupta, Advs.
Mr. Rajesh K. Singh and Mr. V. Mowli, Advs. for Ministry of Environment, Forest and Climate Change
Mr. Attin Shankar Rastogi and Mr. Prateek Yadav, Advs.
Ms. Deep Shikha Bharti, Adv.
Mr. Pankaj Bhagat and Mr. Sadre Alam, Advs.
Ms. Richa Kapoor and Mr. Ashish Negi, Advs.
Mr. Surekh Baxy and Mr. Jayant Rawat, Advs.
Mr. Alok Krishna Agarwal, Mr. Mayank Bughani, Mr. Sanjeev Singh and Mr. Shigra Kumar, Advs.
Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advs.
Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs.
Mr. Ashish Rana, Mr. Jayant Rawat and Mr. Surekh Kant Baxy, Advs.
Mrs. D. Bharathi Reddy, Mrs. Priyanka Tyagi, Advs.
Mr. Utkarsh Sharma, Adv. for State of Uttar Pradesh
Mr. NaginderBenipal, Adv. for PPCB
Mr. Ankur Sood and Ms. Romila Mandal, Advs.
Mr. Shoeab Alam, Adv. for State of Bihar
Mr. B.V. Niren with Mr. Vinayak Gupta, Advs. for R-2 to 4
Mr. Guntur Prabhakar and Mr. Pramod Kumar, Advs. for State of AP
Mr. Devraj Ashok, Adv.
Mr. Sachin Datta, Sr. Adv. and Mr. Yetender Choudhary and Ms. Suneha Jain, Advs.
Mr. Alok Aggarwal, Mr. Sanjeev Singh, Mr. Mayank Bugami and Mr. Shingra Kumar, Advs.
Mr. Rajkumar, Adv.
Mr. Gautam Singh and Mr. Rudreshwar Singh, Advs.
Mr. Mukesh Verma, Adv.
Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 09 July 24, 2018 R	1. The prayer in this Application is for enforcement of regulatory mechanism for handling absolute Alcohol or Ethanol which are highly inflammable liquids. According to the Applicant, the matter is governed by Environment (Protection) Rules, 1986 and more specifically the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 and the Chemical Accidents

	<p>Item No. 09</p> <p>July 24, 2018</p> <p>R</p>	<p>(Emergency Planning, Preparedness and Response) Rules, 1996. The distilleries which are carrying on business of Ethanol production do not require any approval from competent authorities. They are required to take approval from Petroleum and Explosive Safety Organisation (PESO).</p> <p>2. The matter was dealt by this Tribunal inter-alia on 30.08.2017. The Tribunal gave following directions:</p> <ol style="list-style-type: none"> 1. <i>“PESO as well as State of Uttar Pradesh and all concerned States shall take appropriate action in accordance with law i.e. hazardous waste, chemical waste rules and the PESO as it is the competent authority to issue licenses. In our considered view, being licensing authority it is vested with obligations to ensure that the person/industry do not generate or produce absolute alcohol without obtaining the license prior to such production.</i> 2. <i>We direct that the five industries in the State of Uttar Pradesh detail of which as follows:</i> <ol style="list-style-type: none"> a. <i>They shall not manufacture or produce absolute alcohol till further order.</i> b. <i>Notice may also be issued to them, if they so desire, to apply vacation of this order.”</i> 3. Our attention has also been drawn to the minutes of the meeting conducted by the Ministry of Environment, Forest and Climate Change in pursuance of directions of this Tribunal with a view to consider as to whether industries producing ethyl alcohol require any license and who is the competent authority for issuing the license. In the meeting, representative of the Ministry of Petroleum and Natural Gas (MoP&NG), Uttar Pradesh Excise Department, Uttarakhand Excise Department, Bharat Petroleum Corporation Limited (BPCL) and Central Pollution Control Board participated. The issues formulated were as follows:
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(a) *“The Central Government in the Ministry of Environment, Forest and Climate Change and the Ministry of Petroleum and natural Gas has no role so far as issuing of licenses in respect of ethyl alcohol manufacturing is concerned;*

(b) *The Excise Department is the concerned agency in the State Government/Union Territories for issuing licenses under Excise Act for manufacturing ethyl alcohol;*

(c) *Approvals/permission/NOCs from multiple agencies are required by the Excise Department as pre-requisite for issuing license;*

(d) *Mandatory licenses under Explosives Act are required to be obtained from PESO;*

(e) *The State authorities, in particular, the Chief Inspector of Factories, are required to implement the provisions of MSIHC Rules, 1989 and violations if any, to be dealt in accordance with law.”*

4. We are of the view that as noted in the order of this Tribunal dated 30.08.2017, PESO is the competent authority to issue licenses and to ensure that no industry producing absolute Alcohol functions without such license. Accordingly, directions in our order dated 30.08.2017 absolute. Such industries are required to comply with the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 specially with regard to preparation of on-site emergency plan as well as off-site emergency plan as required under Rules 13 and 14 of the said Rules. It is clarified that the direction in order dated 30.08.2017 prohibiting manufacture of absolute Alcohol is applicable only till an appropriate license is obtained.

5. We are hopeful that the concerned statutory authority will take appropriate action in respect any

	<p>Item No. 09</p> <p>July 24, 2018</p> <p>R</p>	<p>industry working without a license, including the industries which obtained the license subsequently.</p> <p>With the above direction, the Original Application No. 130 of 2016 (M.A. No. 916/2016, M.A. No. 852/2018 & M.A. No. 1065/2018) stand disposed of.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p>24.07.2018</p>
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