

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE  
APPLICATION NO. 109(THC)/2013**

**CORAM:**

**Hon'ble Mr. Justice V.R. Kingaonkar  
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande  
(Expert Member)**

**B E T W E E N:**

**Himanshu R. Barot**

**Residing At - 1 B, Everest Society**

**Near Anil Starch Mill,**

**Bapunagar,**

**Ahmedabad.**

**....Applicants**

**V E R S U S**

**1) State of Gujarat & Ors.**

**Deputy Secretary**

**Environment Department**

**Block No.14/8, Sachivalaya,**

**Gandhinagar,**

**2) Gujarat Pollution Control Board**

**Chairman,**

**Paryavaran Bhavan, Sector - 10**

**Gandhinagar,**

**3) Anil Product Ltc**

**Factory Manager**

**Anil Mill Road,**

**Bapunagar,**

**Ahmedabad.**



**...Respondents**

**Counsel for Applicant:**

Mr.R.M.Chavan Adv.

**Counsel for Respondent No.1, 2 :**

Mr. Viral K. Shah Adv.,

**Counsel for Respondent No.3 :**

Mr. Hitesh Jain Adv.

Ms.Ankita Singh Adv.,

Mr.Saurin K.Shan Adv.

---

**DATE: 22<sup>nd</sup> April, 2014**

---

**J U D G M E N T**

**1.** Anil Products Limited is a Private Limited Company incorporated under the Companies Act 1956. This Company manufactures glucose, medicines, biscuits and other products by using starch derived after processing maize. The Biscuits are

having brand name “Kokay biscuits” The factory has its unit at Kalyan Mill, Naroda Road, North Gujrat estate, Ahmedabad. (For the sake of brevity, it will be referred hereinafter as “Anil Products”.) In the instant Application, “Anil Products” is arrayed as Respondent No.3. The first two (2) Respondents are Environment Department of the State of Gujarat and Gujarat Pollution Control Board respectively. They have been arrayed in the Application for the reason that they are the regulatory authorities to enforce environmental laws, particularly, the Air (Prevention & Control of Pollution) Act 1981 and Water (Prevention & Control of Pollution) Act 1974 as well as Environment (Protection) 1986.

**2.** The Applicant claims to be interested in public cause and a vigilant person. He is a Journalist. He alleges that he has no personal interest in the litigation. He claims to have filed various Public Interest Litigations in order to ventilate interest of local residents of Ahmedabad and surrounding area, and for protection of the environment.

**3.** Briefly stated, the Applicant’s case is that “Anil Products” does not follow safety measures and environment Laws in the process of manufacturing the starch and other products. The factory premises of Anil Products are situated in the thickly populated human locality. For manufacturing of the glucose and other products, harmful chemicals are used as raw material. Anil Products also uses Hydrogen gas during course of the process of

production. The Hydrogen gas is stored in big tank and is used while processing maize. The wet starch, the putrefied starch, the starch under process which is stacked in the factory premises of Anil Products, spread out foul smell in the area. The white ash generated by the factory is emitted in the air and causes air pollution. The Air Pollution has resulted into health hazards caused to residents of the area. The factory of Anil Products discharges large quantity of effluents of polluting nature, so also poisonous gas is evaporated from sewage line and therefore, the adverse environment impact is caused due to running of the factory. The boilers of Anil Products are outdated, improperly maintained and discharge foul smell and the chemical waste is drifted through sewage line of the residential area. The starch stored in the tank and open space of the factory is rotten, becomes rancid and putrefied at a times and therefore, odour of intolerable nature is experienced by members of the locality. In spite of large number of complaints made by the Applicant and other residents of the locality, no serious action was taken. Although, sometimes, the Gujarat Pollution Control Board (G.P.C.B.) ordered closure of the operation of the factory but again allowed to re-operate. The actions taken against Anil Products by the first two (2) Respondents are nothing but eye - wash and have not proved to be deterrent. The Applicant, therefore, sought directions that the first two (2) Respondents shall take an effective penal action against Anil Products to ensure permanent closure of

the operation of all the factory units situated in Bapunagar area of Ahmedabad.

**4.** The first two (2) Respondents resisted the Application by filing reply dated September 30<sup>th</sup> 2013. The reply Affidavit of Respondent No.1 is rather cryptic. It does not give any specific information regarding steps taken to deal with the environmental problems due to factory units of Anil Products. According to Respondent No. 1 various regulatory actions were taken, time and again, against Anil Products when violations of the Environmental Laws were brought to their notice. It is averred that the direction U/s. 33(A) of Water (Prevention and Control of Pollution) Act 1974, had been issued against Anil Products on January 18<sup>th</sup> 2010 when E.T.P. was found to be improperly maintained. It is averred further that inspection was taken from time to time. It is pointed out that during inspection dated January 1<sup>st</sup>, 2010, violation of the provisions of Air (P, & C,) Act 1974 had been noticed and therefore, direction was issued on February 8<sup>th</sup> 2010 as per Section 31(A) of the Act. It is further averred that due to non compliance of the conditions and breach of the provisions of Environment and Pollution Laws, request for extension of the C.C.A. validity was rejected vide order dated May 20<sup>th</sup>, 2010 which was applied for by Anil Products. Second time, Anil Products applied for C.C.A. vide Application dated June 15<sup>th</sup>, 2010. That Application was also rejected in view of the Inspection dated June 18<sup>th</sup>, 2010 when non compliance of the Air and Water Act was



found. They further averred that closure order was issued on October 15<sup>th</sup> 2010 when irregularities were found during course of inspection of the factory premises of the Anil Products. It was only after rectification of the defects that was done by Anil Products, G.P.C.B. revoked the closure orders passed under the Air (P.&C.) Act and the Environment (Protection) Act vide order dated May 4<sup>th</sup>, 2011 and May 11<sup>th</sup> 2011 respectively. The factory premises of Anil Products have been inspected again and again. A show cause notice is issued on May 26<sup>th</sup>, 2012 when it was found that Anil Products has committed breach of the provisions of the Environment and Pollution Act. It is denied, therefore, that only paper actions are taken against Anil Products which are “eye-wash” and that the first two (2) Respondents are not regulating the activities of the factory units of Anil Products. According to them, as a result of constant monitoring and persuasion by the Gujarat Pollution Control Board, Anil Products has installed latest Air Pollution Control system, namely, Electro Static Pacificator (E.S.P.) to curb emission of particulate matters from stack attached to the steam boilers. So also, it has been compelled to adopt fogger system, modification of Gluten Dryer, improving of the coal yard area etc. It is also stated that the Pollution Control Board will keep constant monitoring of the activities of Anil Products to ensure that no pollution of what so ever kind is generated. In other words, the first two (2) Respondents say that

the regulatory mechanism has not failed in discharging their legal obligations.

**5.** By filing an elaborate reply, Anil Products resisted the Application on various grounds through counter Affidavit of Shri Sunil Narendra Sheth. According to Anil Products, the Application is filed with intention to gain publicity with ill-intention to politising the entire issue. It is denied that Anil Products has committed any breach of Environmental laws. It is stated that appropriate safety measures are taken to ensure that no pollution would be caused outside the factory premises of Anil Products. It is further stated that infrastructure at the factory of Anil Products consists of boiler house, demineralization plant and effluents treatment plants. There are dryers attached to different plants which prevent most of the effluents and gaseous emission from relieving directly into the open area. There is also U.A.S.B. digester in the Effluent Treatment Plant (ETP) which generate fuel gas for the boilers that saves approximately 50 % of coal consumption per day. The factory has complied with all the conditions of the Water (Prevention & Control of Pollutions) Act 1974 and Air (Prevention & Control of Pollutions) Act 1981, Hazardous Waste (Management, Handing and Transboundary Movement) Rules framed under the Environment (Protection) Act 1986. It is denied that Anil Product is a Polluting Unit. It is also denied that the processing of starch and production of medicines and other goods in the factory cause Health Hazards to the public

members in the area around to the factory unit. However, it is an admitted that due to fermentation activities, a particular kind of smell is found in the factory premises which is present in the bakery and starch Industry which is a natural result of such process. The contention of Anil Product is that a large number of improvements were carried out as recommended during course of inspection of the G.P.C.B. and the factory adopted practice of maintaining the quality of operations so as to ensure compliance of the Pollution Laws. On these grounds, Anil Products sought dismissal of the Application.

**6.** We have heard learned Counsel for the parties. We have perused the relevant documents brought on record. It may be stated that we found that there was certain area of ambiguity in the Ambient Air Quality monitoring conducted by the G.P.C.B. in the area surrounding the factory of Anil Products. Therefore, by order dated September 9<sup>th</sup> 2013, Department of Environment Engineering M.S. University of Baroda was assigned work to conduct the Water and Air monitoring study including Air monitoring of the surrounding area, in order to verify whether the standards enumerated in consent granted by the G.P.C.B. as on January 18<sup>th</sup> 2011 have been complied with. We also directed the said Department to submit report on subject of storm water drifted out through the drainage, ETP. O & M. Quality of treated effluent, odour nuisance, management of stack emission, management of hazardous and solid waste and storage of



hazardous waste and other relevant matters related to environment management pertaining to industrial unit. This appointment of Commissioner of Expert academic institute was directed by consent of counsel of the parties. In pursuance of such directions, the Department of Environment Engineering, M.S. University of Baroda has conducted the relevant study and submitted the report. We shall deal with the said report during course of discussions which will followed hereafter.

**7.** The points involved in the Application may be set out as follows:-

- i) Whether Anil Products causes Air Pollution/Water Pollution in the area surrounding the factory premises?
- ii) Whether Anil Products has committed violations of the conditions enumerated in the consent to operate granted by the G.P.C.B. to run the factory.
- iii (a) Whether Anil Products is liable to pay any penalty/compensation on account of spreading of Air/Water Pollution in the area ?
- iii (b) What control measures are essential to deal with the Air/Water Pollution, if it is found to be generated by the factory of Anil Products ?

**8.** Before we proceed to deal with merits of the matter, it would be useful to no to the emission standards prescribed for Starch

Manufacturing Industry. As per the Environment (Protection) Rules 1986, the starch Industry (maize products) falls under entry No.63. The Industry specific emissions standards laid down are thus:-

Effluents: pH	-	6.5 – 8.5
BOD	--	100 (3 days of 27°C) mg/lt
Suspended Solids	--	150 mg/lt

Waste Water discharge 8 m<sup>3</sup>/tonne of maize processed.

The standards mentioned above can be made more stringent or less stringent depending upon the conditions and local requirements.

**9.** Starch manufacturing process includes a number of sources of emissions. Most common are SO<sub>2</sub> and odorous vapor emissions coming from the sleeping tanks, as well as from the gluten, feed and dryers. In addition, particulates are emitted for boilers, loading sites, storage sites and product dryers. The fermentation stage involved in manufacturing is important source of odorous volatile emissions. There is no denial to the fact that due to wetting & fermentation process at stage pertaining to storage of starch during the process for production of goods, spreading of odour is inherent fall out which is unavoidable unless special care is taken within the factory premises. The odour is likely to cause nuisance to residents of the nearby locality. For, it is but natural that they will be the passive inhalers of the odour mixed with air and the particulate matters emanated from the stack of the

factory. It is an admitted fact that Anil Products is situated in midst of thickly populated locality and there is a school nearby the factory premises. Nobody will deny, therefore, that if there is Air Pollution caused by the stack emission of the factory, then the residents of the surrounding locality and also students of the school will be adversely affected being soft targets in as much as they are compelled passive inhalers of the particulated matter, emissions, odour emanating of from the stack of the factory.

**Re :-- Points (i) & (ii) :**

**10.** In the wake of foregoing discussion, we shall now proceed to examine the material aspects pertaining to the alleged violations of Air (Prevention and Control of Pollution) Act 1981 and Water (Prevention and Control of Pollution) Act 1974, done by Anil Products during maize processing within the factory premises. We have noticed from the record that a large number of complaints were made by the Applicant and various other residents against Anil Products for spreading of foul smell in the area. It also appears that by Communication dated November 13<sup>th</sup>, 2001 the G.P.C.B. informed three of such complainants that previous order of closure was passed against Anil Products due to spreading of Pollution in the area but on basis of representation made by the Company that a time bound programme will be followed for rectification of the defects and that the Pollution will be abated, the Anil Starch Products (Starch Mill) was permitted to re-start the functioning. The copy of time bound programme

submitted by Anil Product for rectification of the defects is also placed on record. It appears that the Applicant started the expedition to pursue the matter through his newspaper so as to arrest menace of the Pollution caused by Anil Products. He was supported by a large number of residents who had participated in making complaints to the G.P.C.B. It is not necessary to set out the entire details of the complaints and the persuasion made by the Applicant to go behind Anil Products with the cause of the environment. Some of the complaints were considered to by the authorities whereas some of the complaints were not at all taken cognizance of. It appears that the Applicant went on publishing public news items in news paper styled as “Deep Bhaskar” to expose the pollution created by “Anil Products”.

**11.** Perusal of the record shows that an incident of explosion had occurred underneath sewage line of Anil Products situated in Sarsapur area passing through storm water. This incident was reported in the local newspapers in March 21<sup>st</sup>, 2003, besides Deep Bhaskar “Gujarat Samachar” and Western Times dated March 27<sup>th</sup>, 2003.

**12.** At this juncture, it may be appropriate to point out that Air Analysis Report of stack emission conducted by the G.P.C.B. for the samples collected during November 16<sup>th</sup>, 2010 to November 22<sup>nd</sup>, 2010 go to show that the results found were not in accordance with the specific standards. Therefore, by order dated January 31<sup>st</sup>, 2011, the consent to operate was revoked by the

G.P.C.B. and Anil Products was accordingly informed. There are other notices and directions issued U/s. 31(A) Air (Prevention and Control of Pollution) Act 1981 issued by Anil Products by the G.P.C.B. which go to show that the Industry was not following norms of standard fixed to prevent Air Pollution. The Inspection Report of the G.P.C.B. indicated various faults in the operation of the Industry. For example; visit report prepared by the authorities of the G.P.C.B. in respect of the visit dated October 19<sup>th</sup>, 2011 (Annex-5) go to show that various deficiencies were noticed. It was found that the entry was not provided to the enclosure of the Coal Storage yard at point source of dust emission. It was also found that maintenance of Hazardous Waste Storage was poor; part of sludge was drifted on open land out of the Hazardous Waste Storage Area. It was recommended that the Industry shall provide the leachate collection system into the husk handling to prevent generated run of the leachate is Environment.

**13.** We have noticed from the record that during the course of various inspections, the G.P.C.B. noted presence of foul smell in the factory premises, foggers were not in operation and the E.T.P. was not efficiently and regularly operated by Anil Products. Instead of giving all details of each and every inspection report, it would suffice to avoid repetition, if the observations of the visit report dated November 9<sup>th</sup>, 2013 are reproduced for the purpose of understanding the nature of Pollution generated by Anil Products:



1. During Visit dosing in flesh mixer was not going on.
2. Aeration tank was not in operation due to maintenance and screening at source was not found proper.
3. In buffer tank lot of scum (Sludge) was observed.
4. In hust collection area foul smell was sensed during visit.
5. During visit in ETP area most of the foggers were not found in operation.
6. Tube settler and ladder provided at buffer tank was found corroded.
7. In entire ETP plant many dead line and bypass line near aeration tank was observed during visit.

**14.** We may take note of fact that the G.P.C.B. gave notices, time and again to Anil Products for rectification of the defects and at a time of closure of the factory. However, on representation of Anil Products and submission of undertaking to carry out the improvements as per time bound programme, again consent to operate was given. It is worthwhile to note that for the present consent and authorization is granted to Anil Products for period uptill April 21<sup>st</sup>, 2014. A copy of consent issued by the G.P.C.B. is placed on record. The consent to operate shows that several conditions have been imposed by the G.P.C.B. while granting said

consent to operate. One of the important condition is related to maintaining ambient air quality in factory area. GPCB has not submitted records of regular ambient air quality monitoring within industry premises or in the adjoining residential area. GPCB could have used scientific and analytical tools in air quality assessment to approximately work out the impacts of industrial emissions on the nearby residential areas.

**15.** The foregoing discussion and the documents on record clearly indicate that Anil Products continued to generate Air Pollution in the surrounding area through the stack emission. It also failed to properly monitor hazardous waste discharge within the factory premises. It is brought on surface of the record that the G.P.C.B. was dis-satisfied with performance of Anil Products. It was found during the course of various inspections that Anil Products did not comply with Environmental norms. It was also found that the emission levels of Anil Products were not in keeping with the parameters of Air (Prevention and Control of Pollution) Act. So, the directions had been issued U/s. 31(A) of the Air Act and stern action had been taken against Anil Products. It is however, difficult to fathom as to how the G.P.C.B. accepted credibility of assurance of Anil Products to improve the standards and again issued the consent to operate inspite of the fact that the earlier track record of Anil Products was dis-satisfactory. The private analysis reports produced by Anil Products are not acceptable in as much as we are not aware whether the samples

were collected during the course of operation of the factory and also about the time of such collection. One cannot be oblivious of the fact that period of collection of the emission samples would cause much difference in the analysis report and there are variables caused due to several factors.

**16.** In the above backdrop we are more impressed by the report submitted by Environmental Engineering, (Civil Engineering) Department, M.S. University, Baroda. The report shows that there were still, certain defects in operation of the factory of Anil Products. The monitoring activity was conducted by 4<sup>th</sup> and 5<sup>th</sup> January 2014 by the Civil Engineering Department of M.S. University, Baroda, at the factory premises. The Industry was informed to keep all the plants in operational condition during the visit. The air quality samples were collected. At location No.1 the ambient air quality was found to be rather exceeding the standards. P.M. 2.5 and P.M. 10 concentration are observed to be higher than the specified limits and could be attributed to the Industry as Pollution source. It was noticed that there was odour nuisance in and around the Industrial premises. So also, outside the industry, the odour was recognized as of molasses which is inherent odour of manufacturing process. Inside industrial premises, three types of odours were experienced

- 1) Molasses odour due to manufacturing process.
- 2) Odour due to putrefaction of husk and

- 3) Hydrogen sulfide odour near ETP area even with the operation of foggers to control this odour.

It was found that pH of Wastewater at the inlet of UASB is found in acidic range, no prior neutralization was observed which indicated poor efficiency of UASB process and may be reason for the odour in ETP area. There was no settling system in the treatment units. The old tanks in ETP were found partially filled with waste water. There is a open drain for conveyance of Gluconate Plant Waste Water to nearby manhole from where it was taken to the ETP near the calcium Gluconate Plant. The Domestic sewage generation was a higher side. No settling system was observed treatment units named as tube settler was found to be aeration unit with diffuses.

**17.** The department of Civil Engineering, M.S. University of Baroda has made following recommendations :

*\* For control of fugitive emissions from manufacturing plant area following measures is recommended :-*

*(a) At Conveyor systems to prevent spillage of material dust (i) Material loading onto the center of the belt and (ii) Provision of skirting and covering should be provided.*

*(b) To control fugitive emissions from product bagging, control measures like (i) Proper attachment of bags to the spout (ii) Providing a cover with a flexible chute attached to the storage bin (iii) Enclosing the operation as much as possible to contain the dust (iv) Reducing the rate of discharge of the material and (v) Vacuum and dry collection system may be provided.*



\* *At the worksite boiler fly ash is to be managed in such a manner that it does not get airborne even in dry season and should not get inundate with water during rainy season. It should be placed/stockpiled in well-drained area during rainy season and be kept wet or covered with tarpaulin or two inch layer of soil during summer season, as may be possible.*

\* *From the visit to the industry it is evident that the industry has invested in Effluent treatment system and Air pollution control system but there is lack of management. For each treatment system logbook for wastewater flow, gas flow, chemical consumption, fuel consumption, solid/hazardous waste generation should be maintained, to have vigil on treatment system.*

\* *It is recommended that in Activated Sludge Process following UASB treatment, sludge recirculation for maintenance of MLSS is must.*

\* *Proper storm water collection and disposal system should be provided for the entire industrial premises. Mixing of raw material, product and solid/hazardous waste with storm water should be prevented.*

\* *Personal protective equipments like ear plugs, masks etc. should be provided to workers and awareness should be created amongst workers about the use of these equipments.*

**18.** The conclusions drawn by the team of Experts of M.S. University, Baroda are that over all dust particulate concentration in and around the Industry was found on higher side. The ETP and APC facilities could be updated for better disciplined operations. The report also mentions that although the effluent



standards are compiled at the discharge point, it is technically difficult to justify the reported quality of final effluent. This observation is important and needs more follow up by GPCB. Needless to say, Anil Products was found to be the Industry which generates dust/particulate concentration of higher rate and more than the prescribed limits. It also generates odour of excess nature. Moreover, it does not handle Hazardous Waste in required manner as per the Hazardous Waste Management Rules 2000.

We have gone through the responses of the Anil Products to the Report of M.S. University, Baroda. We are not satisfied with the response. We may record statement of learned Counsel for the Anil Products that the recommendations of the Department of Civil Engineering, M.S. university, Baroda will be duly implemented by Anil Products within specified time period, The learned counsel expressed readiness to abide by the recommendations of the Department of Civil Engineering , M.S. University Under these circumstances, we have no hesitation in holding that Anil Products is proved to be the Industry which generates odour and causes Pollution in the surrounding area. Accordingly, both the points are answered in the Affirmative.

**Re : Point No.3(a) & (b) :**

**19.** We have already observed that Anil Products was found to have been causing odour in the surrounding area due to stack emission as well as mis-handling of the stack of starch and the processing of the starch. The foggers were not fully functional.

The conveyor belts were not enclosed as per the modern techniques. Odour as well as gaseous particulate matter used to emanates from the processes and stack of the factory. The factory used to be closed down on some occasions but again was allowed to re-start. Still, however, there was no complete pollution control observed by Anil Products. Hence, this is a fit case in which "Polluters' Pays" principle will be applicable. The public members of the surrounding area are the victims of such pollution. In this view of the matter, we are of the opinion that Anil Products shall pay compensation of Rs.10,00,000/- in general which shall be deposited in the office of the Collector, Ahmedabad. This amount shall be utilized for development of green belt or establishment of play ground or appropriate park with jogging track in the area of Bapunagar, Ahmedabad in the joint consultation and of the Collector and Municipal Corporation as per the approval of plan by the Municipal Corporation, Ahmedabad.

**20.** We deem it proper to approve the recommendations of the Civil Engineering Department of Baroda University and incorporation of the same in the final order of this judgment with a rider that the same shall be implemented under the supervisiobjn of G.P.C.B. by Anil Products within period of nine (9) months hereafter. The G.P.C.B. is required to take stern action if Anil Products will fail to implement the recommendations of the M.S. University, Baroda. Considering the foregoing discussion, we are inclined to partly allow the Application in the following way :

- i) The Application is partly allowed.
- ii) The Respondent No. 3 (Anil Products) shall pay compensation of Rs.10,00,000/- being compensation in general due to pollution cost on account of odour and pollutants emanated from the mercers and stack of the factory during the past period.
- iii) The amount shall be deposited in the office of the Collector, Ahmedabad within period of four (4) weeks hereafter. A duly authenticated copy of the receipt shall be placed on record after four (4) weeks. The Collector, Ahmedabad shall utilize the amount for the public purposes as mentioned in para 19 of this Judgment.
- iv) The G.P.C.B. (Respondent 2) is directed to specify the recommendation and the control measures as per the recommendations of the Department of Engineering, M.S. University, Baroda and issue separate directions to Anil Products.
- v) We direct Anil Products to comply with the recommendations of department of Civil Engineering, M.S. University, Baroda which are stated at point No.4 in the report and as per the direction which will be issued by the G.P.C.B.

- vi) We further direct Anil Products to comply with the recommendations of the Department of Civil Engineering, M.S. University, Baroda within period of nine (9) months under supervision of the G.P.C.B. The G.P.C.B. shall monitor compliances of such recommendations, periodically at end of each month by Anil Products and shall submit status report of this Tribunal, monthwise till completion of nine (9) months.
- vii) In case of failure of Anil Products to comply with the recommendations of the Department of Civil Engineering, M.S. University, Baroda, the G.P. C.B. is directed to issue minimum closure order and not to allow operation of Anil Products without further approval of this Tribunal.
- viii) Anil Products shall pay costs of Rs.25,000/- to the Applicants within period four (4) weeks and shall bear its own.
- ix) The Application is accordingly disposed of.

....., JM  
(Justice V. R. Kingaonkar)

....., EM  
(Dr. Ajay A. Deshpande)