

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

Original Application No. 29/2013 (CZ)

Passed on 25th September, 2013

In the matter of

Kamta Saini
S/o Shri Kusumlal Saini,
R/o House No. 4706,
Near Durga Chowk, Sanjay Nagar,
Adhartal, Dist. Jabalpur (MP)

.....Applicants

Versus

1. Union of India,
Through Secretary,
Ministry of Environment and Forest,
New Delhi.
2. State of MP
Through the Principal Secretary,
Revenue Department,
Vallabh Bhawan, Bhopal.
3. Madhya Pradesh Pollution Control Board,
Through Secretary,
Paryavaran Parisar, E-5,
Arera Colony, Bhopal (MP).
4. Regional Officer, MP Pollution Control Board,
Vijay Nagar, Jabalpur, District Jabalpur.
5. Inspector, MP Pollution Control Board,
Vijay Nagar, Jabalpur (MP).
6. Jawaharlal Nehru Agriculture University
Through Vice Chancellor,
Adhartal, Tehsil & Dist. Jabalpur.
7. Hindustan Petroleum Corporation Ltd.
Through Regional Office,
HPCL, Mumbai (MH).

8. Hindustan Petroleum Corporation Ltd.
Territory Manager, Jabalpur.
9. Jaiswani Petrol Pump
Through Shri Sunil Jaiswani
S/o Shri Vasudeo Jaiswani,
Adhartal, Tehsil & Dist. Jabalpur (MP).
10. The District Collector,
Jabalpur, Dist. Jabalpur (MP)Respondents

Counsel for Applicant :

Shri R.S.Verma, Advocate

Counsel for Respondents :

Shri Sachin K.Verma, Advocate and Shri Ayush Dev Bajpai, Advocate for Respondents No.1, 2 and 10.

Shri Shivendu Joshi for Respondents No. 3, 4 and 5.

Shri Anil Kumar Singh for Respondents No. 7 and 8.

Shri Sanjay Singh for Respondent No. 9.

JUDGMENT

CORAM:

Hon'ble Mr. Justice Dalip Singh (Judicial Member)

Hon'ble Mr.P.S.Rao (Expert Member)

ORAL JUDGEMENT BY JUSTICE DALIP SINGH, JUDICIAL MEMBER

1. This application has been filed under Section 18 read with Section 14, 15, 16 and 17 of the National Green Tribunal Act, 2010 by the applicant praying therein for cancellation of the pre-consent dated 01.04.2013 (wrongly stated as 31.03.2013 in the Application) in respect of land bearing Khasra No. 156/01 and 156/03 vide consent no. COG GRT H-2044 granted to the respondent no. 9 by the MP Pollution Control Board for establishment of a petrol pump in the aforesaid land. The grievance raised with which we are concerned is that the land in dispute over which the petrol pump is being established by the respondent no. 9 is adjoining a tank by the name “Adhartal” in the city of Jabalpur in Madhya Pradesh and that in case the aforesaid petrol pump is commissioned, the water of the tank shall be polluted as a result of discharge and flow of water and other material like petrol, diesel, oil, etc. from the petrol pump into the lake. It is also contended that the pre-consent dated 01.04.2013 also deserves to be cancelled in view of the fact that no consent under the Water (Prevention and Control of Pollution) Act, 1974 has been obtained by the Project Proponent.
2. Other grounds with which this Tribunal is not concerned pertain to the petrol pump being located in the vicinity of the residential area and the risk to the residents as a result thereof, which do not fall within the jurisdiction of the National Green Tribunal Act, 2010. Accordingly,

Learned Counsel has confined his submission to the above stated issue only

3. On the receipt of the aforesaid application vide order dated 01.07.2013, notices were ordered to be issued to the respondents. In response to the aforesaid notices, the respondents have put in their appearance and have filed their replies.
4. The respondent no. 3, 4 and 5 i.e. the MP Pollution Control Board and its officers submitted their reply wherein they have stated that the project proponent, respondent no. 9 applied to the District Collector for the concerned licence and the Collector, in turn, directed the project proponent to obtain No Objection Certificate from the concerned authorities including the MP Pollution Control Board.
5. It is submitted in the reply of the respondent no. 3, 4 and 5 that the respondent no. 9 project proponent applied to the MP Pollution Control Board authorities in the prescribed form and the authorities conducted an inspection and prepared their report which has been filed as Annexure R-4. The aforesaid inspection report which took into account the nature of the activity, the nature of the products including the make, specification of the storage tanks and all other relevant material came to the conclusion that the activity in question which was being installed by way of petrol pump falls within the green category, looking to the nature of business to be carried out which was only of a petrol filling station. It was noted that there would be zero consumption of water and zero

discharge of waste water. Based upon the aforesaid, the respondent no. 3, 4 and 5 have contended in their reply that on account of not emitting any air pollutant or discharge of any sewage or trade effluent, no consent under the provisions of Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 were required.

6. As regards permission for hazardous waste management, we find that the authorisation for the same has been duly issued by the Regional Officer, MP Pollution Control Board on 01.04.2013.
7. In the reply, it has been stated that even after filing of the present application, the officers of the MP Pollution Control Board taking notice of all the objections raised by the applicant in the present application inspected the site again with a view to ascertain any possibility of pollution being caused to the Adhartal Tank as a result of the commissioning petrol pump by the respondent no. 9. The inspection report has been filed as Annexure R-5 alongwith the reply.
8. It has been stated in the inspection report dated 23.08.2013 that the Adhartal Tank is situated about 50 meters away from the compound of the petrol pump. It has also been stated in Para 3 dealing with the “probability of pollution from establishing of petrol pump” that the *“process, storage and distribution of petrol is non-polluting in nature. So there is no probability of ground water pollution and Adhartal water pollution due to working of the said petrol pump*

.....” In the final analysis under para 6 which has been recorded “..... *the working of petrol pump is non-polluting in regular basis. All safety precautions are taken by petrol pump dealer and petroleum companies to check the leakage of petrol/diesel from the underground storage tanks. They have prescribed mechanism for this. Only in case of accidental leakage or spillage of petrol/diesel may affect ground water but this happens very rarely. This is also a fact that previously a petrol pump was working at the same spot for about two years back and any complaint regarding ground water or Adhartal water pollution never came to the knowledge of the Board. So the issue raised by the applicant in the present Application No. 29/2013 that ground water of nearby area and Adhartal Tank water will be polluted due to establishment of petrol pump of respondent no. 9 seems hypothetical.*”

9. The Hindustan Petroleum Corporation Ltd. has also submitted their reply wherein apart from raising objections regarding the maintainability of this application, a reply on merits has also been submitted wherein details of the steps taken for the installation of the present petrol pump have been stated. It has been stated that permission from the District Collector has been obtained in accordance with Rule 144 of Petroleum Rules, 2002 for “fuel filling station” at the site in question. It has clearly been stated that the present one is only a “fuel filling station” and not a “service station”. Therefore, the question of generating any hazardous

waste which may flow into the Adhartal Tank is ruled out. It has also been stated that all care has been taken and in accordance with Rule 126 of the Petroleum Rules, 2002. Fully tested tanks are being installed to ensure that they are free from leakage and are suitable for the petroleum storage. It has also been stated by the respondent company that in fact the size of the lake has shrunk and the present location of the lake is about 500 meters from the boundary of the petrol pump. It has been contended that in view of the above and the fact that there would be no discharge of any untreated effluent/sewage or waste into the Adhartal Tank as a result of running the fuel filling station, since it is not a service station the provisions of Section 32 and 33 of the Water (Prevention and Control of Pollution) Act, 1974 are not attracted. In the light of the above, the respondents have prayed for dismissal of the application.

10. We have considered the aforesaid submission and perused the records produced before us. We intend to confine ourselves only to the question relating to the infringement if at all while granting the permission as to whether there is any violation of environmental laws more particularly the Water (Prevention and Control of Pollution) Act, 1974.
11. Admittedly, in the instance case, the respondent no. 9 has been granted a licence only for installation of a “fuel filling station” and not a petrol pump with “service station”. The reply and the documents filed by the respondent Hindustan Petroleum Corporation Ltd. clearly indicates the above decision. Their reports and the inspection carried out by the

Pollution Control Board authorities are based upon the facts that since the activity shall be confined by the respondent no. 9 only to the establishment and operation of a fuel filling station where there would be zero discharge of water and effluent and no such waste would be generated on account of this limited activity of fuel filling station, we are of the view that in the facts and circumstances of the present case, no permission under the Water (Prevention and Control of Pollution) Act, 1974 and its rules was required.

12. As such, the aforesaid submissions of the Learned Counsel for the application that the permission granted to the project proponent is in violation of the provisions of the Water (Prevention and Control of Pollution) Act, 1974 is devoid of any merit. In the facts and circumstances there was no necessity of seeking any permission under the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and no such requirement could be pointed out by the Learned Counsel for the applicant.
13. We find that the permission granted by the MP Pollution Control Board on 01.04.2013 under the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 is very comprehensive in nature and the general condition no.5 in Form No. 2 that “the authorisation is subject to the conditions stated below and such conditions as may be specified in the rules for the time being in force under the Environment (Protection) Act, 1986” is comprehensive enough and read with the

terms and conditions at para 7 which states that the authorized person shall be bound by any other conditions for compliance as per the guidelines issued by the Ministry of Environment and Forests or the Central Pollution Control Board will take care of any future requirements.

14. So far as “the memo of information” which has been filed by the applicant today, wherein some news items and the complaint regarding leakage of petroleum product into the wells and the water getting affected is concerned, we may only add that from the records and inspection report, it appears that up to 23.08.2013 when the inspection was carried out by the authorities of the Pollution Control Board, the present petrol pump had not even been established and the work of placing the tanks was going on. As such, the question of any leakage from the site of the disputed petrol pump to be installed by the respondent no. 9 does not arise. The newspaper reports are dated 04.06.2013 and 20.07.2013 and the representation by the residents was presented on 12.06.2013 at which point of time the storage tanks had not been installed. In the inspection report dated 23.08.2013 at Annexure R-5 it is recorded as follows:

“Petrol and diesel will be stored in Mild Steel made cylindrical underground tanks On inspection construction of 02 Brick Masonary tanks with RCC base was in progress in which cylindrical storage tanks will be placed.”

Thus, the contention raised upon the above reports is hereby rejected as it cannot be related to the activity of the project proponent in any manner.

15. Looking to the totality of the facts and circumstances of the present case, we find no merit in the present application.
16. The application is accordingly dismissed with no order as to costs.

