

ITEM NO.1

COURT NO.4

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. Nos.81-82 & 83-84 of 2015

In

Civil Appeal Nos.3633-3634/1999

U.P.POLLUTION CONTROL BOARD

Appellant(s)

VERSUS

ANIL K. KARNWAL & ORS

Respondent(s)

(For directions and exemption from filing English translation and office report)

Date: 16/03/2016 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Appellant(s) Mr. Pradeep Misra, AOR
Mr. T. Mahipal, Adv.

For Respondent(s) Ms. Vibha Dutta Makhija, Sr. Adv.
Mr. M.Z. Chaudhary, Adv.
Mr. Aftab Ali Khan, AOR
Mr. Shariq A. Zaidi, Adv.
Mr. Emamuddin Azmi, Adv.
Mr. Mohd. Zahid Hussain, Adv.

Mr. T.N. Singh, Adv.
Mr. Abhishek Chaudhary, AOR

Mr. Adarsh Upadhyay, AOR

Mr. Anil Kumar Jha, AOR

Mr. Jitender Mohan Sharma, Adv.
Mr. Ashok Kumar Sharma, AOR
Mr. Vikalp Mudgal, Adv.

Mr. Chander Shekhar Ashri, AOR

Mr. Himinder Lal, AOR

Mr. Kamlendra Mishra, AOR

Mr. Lakshmi Raman Singh, AOR

Mr. M. C. Dhingra, AOR

Mr. P. K. Manohar, AOR

Mr. Rakesh Uttamchandra Upadhyay, AOR

Mr. Shiv Prakash Pandey, AOR

Mrs. Nandini Gore, AOR

Mr. Varinder Kumar Sharma, AOR

Ms. Anu Mohla, AOR

M/s. J. S. Wad & Co.

UPON hearing the counsel the Court made the following
O R D E R

This Court on 27th January, 2014, had passed the
following order:

"Though, on 09.09.2013, this Court passed the order that the appellant- U.P. Pollution Control Board (for short, 'Board') would indicate to each of the industries the requirements to be fulfilled for grant of consent including modernisation and we are informed that pursuant thereto the Board has informed each of the industries the necessary requirements for grant of consent, yet we find that on 26.09.2013 an affidavit has been filed by Mr. Niranjan Singh Tyagi in response to the reply affidavit dated 03.07.2013 filed by the Board wherein it is stated that the polluting industries are in operation without installing any device to reduce the pollution as on 20.09.2013.

Response to the affidavit dated 26.09.2013 filed by Mr. Niranjan Singh Tyagi has assumed importance as Mr. Pradeep Misra, learned counsel for the appellant - Board, submits that no polluting industry is operational and they have been closed way back in 2003-2004.

The Board shall file its response to the

affidavit dated 26.09.2013 filed by Mr. Niranjan Singh Tyagi within one month. Before filing the affidavit, the Board will also survey the affected areas to find out whether or not any of these polluting industries are in operation and submit the report to this Court along with the affidavit.

List the matters on March 3, 2014."

In pursuance of the aforesaid order, the appellant, U.P. Pollution Control Board (for short, 'the Board'), carried out certain inspections and, thereafter, leave was sought to decide the consent applications in respect of the four industries, namely, Rayban Organics Pvt. Ltd., Rayban Foods Pvt. Ltd., Standard Bone Manure and Bharat Feed & Fertilizer.

On 3rd March, 2014, this Court in civil appeals, after hearing the learned counsel for the parties and taking note of the order dated 27th January, 2014, and upon perusal of the status report filed by the Board, had passed the following order:

"We have carefully considered the same. Two things transpires from the status report. One, out of the 27 industries mentioned in the first Table of Annexure-1, some have proceeded for modernization and installation and civil work in that regard is in progress. In some, only boundary wall exists and there is not much progress. As regards item No.27, the applicant has applied for consent to establishment for rendering plant. During the inspection, the land was found to be vacant.

The other four industries mentioned in the second Table namely; Rayban Organics P. Ltd., Raybon Foods Pvt. Ltd., Standard Bone Manure and

Bharat Feed & Fertilizer have started their operation after getting consent from the Board.

As regards the four industries mentioned in second Table, the Board before granting consent ought to have brought to the notice of this Court the progress made by these four industries and sought permission from the Court. The Board has to explain as to why without bringing to the notice of this Court about the progress made by these industries, the consent was granted. The affidavit shall be filed by the Secretary, Board in this regard within four weeks from today.

As regards 27 industries in the first Table, we observe that as when these industries complete modernization of the plant and meet all the statutory requirements as well as other conditions that may be put by the Board, liberty is granted to the Board to make application for appropriate directions. It is clarified that without direction of this Court, no consent shall be granted by the Board with regard to subject industries in any manner whatsoever."

After the said order was passed, the Board conducted a survey to find out whether or not any of the polluting industries are in operation and submitted the report to this Court.

When the matter was taken up on 3rd December, 2015, the Court after referring to its earlier orders, noted thus:

"In pursuance of the aforesaid order, an additional affidavit has been filed stating, *inter alia*, that the said four industries have removed the defects and in that backdrop, prayer has been made in the application seeking permission to consider the consent applications pending before the Pollution Control Board.

Having heard learned counsel for the parties, we are inclined to grant liberty to the U.P. Pollution Control Board to consider the applications for consent in accordance with the

provisions of law and pass a reasoned orders. We may hasten to clarify, the other applications which were the subject matter of this *lis* can also be considered in the similar manner as indicated above. The consent order(s) shall be filed before this Court so that appropriate direction can issued. The said exercise shall be carried out within six weeks."

On the basis of the aforesaid order, the Board considered the applications of the said four industries and found that three could be cleared by the Board and the one could not be because it still has some deficiencies. We do not intend to comment anything on the fourth one.

When the matter was listed on the last occasion, the Court directed the learned counsel appearing for the respondents to file objections pointing out, if any further conditions are required to be incorporated in the consent letter so that a healthy and unpolluted atmosphere is maintained.

Today, when the matter was taken up, the learned counsel appearing for the respondents, apart from arguing certain aspects on merits, submitted that the consent letters that have been given, requires to be verified, inasmuch as the pollution still remains. It is also submitted by them that the conditions which have been imposed are not adequate and they are required to be verified by an expert body.

Regard being had to the aforesaid submissions and the cavil in question, we direct the Central Pollution

Control Board, New Delhi, to nominate three members, who shall go to the site to verify and consider whether the conditions incorporated in the two consent letters issued by the U.P. Pollution Control Board are adequate to avoid any kind of pollution in respect of the aforesaid three industries and, if not, they can suggest more conditions. We may hasten to clarify that the duty of the Central Pollution Control Board is only to verify the local condition and to suggest to this Court what more conditions are to be incorporated and not to give any other independent opinion or to sit in appeal on the decision taken by the U.P. Pollution Control Board. A copy of this order be communicated to the Member Secretary of the Central Pollution Control Board, New Delhi. The Committee shall, at the time of inspection, take assistance of the U.P. Pollution Control Board, so that an objective report comes before this Court. The Committee shall submit the report within two weeks hence.

Let the matter be listed on 11th April, 2016.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master