

ITEM NO.3

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. 81-82/2015 in Civil Appeal No(s). 3633-3634/1999

U.P.POLLUTION CONTROL BOARD

Appellant(s)

VERSUS

ANIL K. KARNWAL & ORS

Respondent(s)

(for directions and office report)

Date : 03/12/2015 These applications were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Mr. Ranjit Kumar, S.G.  
Mr. Pradeep Misra, AOR  
Mr. T. Mahipal, Adv.  
Mr. Suraj Singh, Adv.

For Respondent(s) Mr. T.N. Singh, Adv.  
Mr. Abhishek Chaudhary, AOR  
  
Mr. Adarsh Upadhyay, AOR  
  
Mr. Rajiv Dutta, Sr. Adv.  
Mr. M.Z. Chaudhary, Adv.  
Mr. S.A. Zaidi, Adv.  
Ms. Gulnaz Parveen, Adv.  
Mr. Aftab Ali Khan, AOR

Mr. Anil Kumar Jha, AOR

Mr. Ashok Kumar Sharma, AOR

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., Adv.

Ms. Shobha, Adv.

Ms. Akanksha Kaushik, Adv.

Mr. Bonny Mehra, Adv.

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

The present applications have been filed by the U.P. Pollution Control Board seeking permission to decide the consent applications in respect of four industries, namely, Rayban Organics P. Ltd., Rampur Road, Hapur; Raybon Foods Pvt. Ltd., Rampur Road, Hapur, Standard Bone Manure, Idgah Road, Hapur; and Bharat Feed & Fertilizer, Idgah Road, Hapur.

Mr. Ranjit Kumar, learned Solicitor General appearing for the Board has drawn our attention to three orders. The first order dated 27.01.2014 reads as follows :

"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. Niranjana 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 applicant - 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."

Learned Solicitor General has also drawn our attention to the order dated 03.03.2014 wherein this Court after stating the facts and referring to the earlier order, had observed :

"3. 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-I, 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.

4. 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.

5. 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.

6. As regards 27 industries in the first Table, we observe that as and 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.

List both matters after four weeks."

In this context, reference to the order dated 07.04.2014 would be apposite. It is as follows :

"The affidavit filed on behalf of the Member Secretary, U.P. Pollution Control Board, in pursuance of the order dated 3.3.2014, is deficient inasmuch as no material in support thereof has been placed on record.

Confronted with this, Mr. Pradeep Misra, learned counsel for the appellant prays for more time for filing an additional affidavit duly supported by the documents justifying the action of granting consent to the four industries namely; Rayban Organics P. Ltd., Raybon Foods Pvt. Ltd., Standard Bone Manure and Bharat Feed & Fertilizer.

The additional affidavit with documents may be filed within four weeks.

List both matters thereafter."

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.

List the matter after six weeks.

Liberty to mention.

(Gulshan Kumar Arora)  
Court Master

(H.S. Parasher)  
Court Master