

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

Original Application No. 1040/2018
(I.A. No. 11/2019)

Sushil Kumar

Applicant(s)

Versus

State of Punjab & Ors.

Respondent(s)

Date of hearing: 28.02.2019

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

For Applicant(s): Mr. Gursharan Singh

For Respondent (s): Ms. Anusha Nagarajan, Mr. Rahul Ranjan,
Advocates, Mr. Amardeep Singh, Fisheries
Officer and Mr. Vidya Sagar, Assistant Director
Fisheries
Mr. Naginder Benipal and Mr. Gagan Kumar,
Advocates
Mr. Gopal Jain, Senior Advocate and Mr.
Sangram S. Saron, Advocate

ORDER

1. The issue for consideration in the present matter is pollution being caused by A.B. Grains and Chadha Sugar Mill at Village Kiri Afgana, District Gurdaspur by releasing molasses/acidic water in Beas river through rivulet Kahnuwan Drain. According to the applicant, fish in the river have died because of pollution which was also reported in Hindustan Times dated 19.05.2018 under the heading "Dead fish in Beas river: Dolphins not sighted after killer spill, gharials safe".

2. Vide order dated 13.12.2018, this Tribunal constituted a joint inspection team with representatives of Central Pollution Control Board (CPCB), Punjab State Pollution Control Board (PSPCB) and Punjab Fisheries State Development Board (PFSDB) for furnishing a factual report in the matter.
3. Accordingly, a report has been filed on 17.01.2019 by the CPCB. The report mentions about the incident dated 16.05.2018 resulting in unstoppable over flow of molasses from the tanks of the industry to the Kahnuwan swamp drain which meets river Beas, causing death of fishes and damage to flora and fauna. This resulted in depletion of dissolved oxygen levels in the river. The PSPCB found the temperature of molasses to be too high and the flow was stopped only on the next date i.e. on 17.05.2018. The PSPCB also found clear negligence on the part of the industry for not having safety arrangements required under the Factories Act, 1948, for storage of excessive molasses. The CPCB found that the sugar mill had excess production resulting in excess generation of molasses, without sufficient storage capacity. The PFSDB found that the colour of the Beas river water became dark brown and the dead fishes were found of the size ranging from few grams to about 150 kg.
4. The report further states that in view of emergency situation, PSPCB issued directions for revoking Consent to Operate, sealing of the plant and machinery and encasing of Bank

Guarantee of Rs. 25 Lakhs. After hearing the industry, PSPCB directed to deposit a sum of Rs. 5 Crores with the PSPCB as environment compensation for restoration of ecology of the river and a criminal case was also filed against the industry. This was in addition to other directions. The Safeguard Committee made its recommendations and a Committee was constituted for conservation and restoration of the ecology of the river. The report also refers to the connected matter being dealt with by this Tribunal being *Original Application No. 101/2014 in Shobha Singh Vs. State of Punjab & Ors.* relating to pollution in rivers Satluj and Beas in Punjab by industrial effluents and municipal waste, which has been dealt with by a separate order passed therein.

5. Having regard to the above findings in the report, we are of the view that the Monitoring Committee, constituted under orders of this Tribunal in *Shobha Singh* (supra), ought to look into the present matter also which has direct bearing on the said matter also and about adequacy of safeguards adopted to prevent and save the aquatic life, adequacy of amount of compensation which has been sought from the polluting unit in question on principles laid down by the Hon'ble Supreme Court that compensation in such cases has to be deterrent to discourage any polluter from indulging in such activities and

also should be adequate to restore the damage caused to the environment¹.

6. The Committee may also consider report dated 30.01.2019 filed by the CPCB before this Tribunal in the above connected matter and recommend whether the industry should be allowed to operate and if so, subject to what safeguards on precautionary principle, including taking of performance guarantee of a suitable amount undertaking to ensure that such mishap is not repeated. The parties are at liberty to give their view point to the Committee within two weeks.

7. The Monitoring Committee may furnish its report in the matter separately within three months by e-mail at ngt.filing@gmail.com.

List for consideration of the report on 16.07.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

February 28, 2019
Original Application No. 1040/2018
(I.A. No. 11/2019)
A

¹ See (1987) 1 SCC 395 ¶31
(2013) 4 SCC 57 ¶47-50