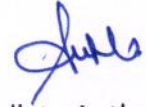


125/2021 M/s Chetna Stone Crusher Vs. HSPCB

Present: Sh.Jitender Dhanda, Advocate for appellant  
Shri Ramesh Chahal, Advocate for the respondent.

Vide separate of even date, the appeal is accepted. Copy of order be supplied to the parties free of cost.

Dated 08.12.2022



Appellate Authority

**Before the Appellate Authority constituted under the Air (Prevention and Control of Pollution) Act 1981, New Civil Secretariat, Haryana Sector 17, Chandigarh**

**Appeal No.125 of 2021**

**Date of Decision: 08.12.2022**

M/s Chetna Stone Crusher, Village Amarpur Jorasi, Narnaul, District Mahendergarh through its authorised signatory Vinod Kumar

...Appellant

Versus

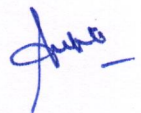
1. Haryana State Pollution Control Board, through its Chairman
2. Regional Officer, Haryana State Pollution Control Board, Dharuhera

.....Respondents

**ORDER**

The appellant applied for consent to establish stone crusher unit at Village Amarpur Jorasi, Narnaul, District Mahendergarh and moved an application in this regard on 25.12.2020. On 11.12.2020 the appellant was issued a show cause notice for refusal of CTE under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 and Section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981. The show cause notice referred to the deficiencies in the application of appellant and asked appellant to take corrective measures and to file reply. Deficiencies pointed out in the show cause notice are as follows:

1. *Siting Norms parameters report submitted alongwith application have neither mentioned anywhere name of the Proposed project i.e. M/S CHETFA STONE at Khewat NO. 416, Khatoni No. 489, M/Kila No. 86//14(3- 5), 17(7-5). 24 Min North (2-14) at Village-Amarpur Jorasi, Narnaul, Distt-Mohindergarh nor any proof for certifying the prescribed parameters from the prescribed concerned Authority as per Notification dated 11.5.2016*



so issued in reference to the proposed project by the Environment Department, Govt. of Haryana.

2. Submitted undertaking for deposition of Performance Security of Rs.50,0000/-, please clarify and correct as per prescribed schedule/ Orders/ policy of the Board.
3. Not submitted C.A. Certificate regarding capital investment cost w.r.t. land, building, plant and machinery of the proposed project.
4. Submitted Power of attorney/ authority letter to sign the application for manufacturing of stone unit while project report submitted for Mineral grinding activity, please clarify.
5. Not submitted Design Scheme of Air Pollution Control Devices for Mineral Grinding unit as applicable based upon the Pollution load and prescribed standards, if proposed project relates to Mineral Grinding unit as per Mineral Grinding Guidelines so issued in this regard.
6. Siting parameter report submitted by Forest Department dated 24.11.2020 for both stone crushing unit and Mineral grinding unit as both are different Project having manufacturing activity including feeding of Raw material, Plant & machinery and even air pollution control measures are also different and submit Siting parameter report accordingly as per applicable Notification dated 11.5.2016 in reference to Stone crushing unit and Mineral Grinding Guideline dated 2.4.2012 amended from time to time in reference to project as explained in this regard.
7. Not submitted any readable Site plan of the proposed project.
8. Not submitted Layout plan showing the details of all manufacturing processes, location of stacks/ chimneys, ETP/ STP, APCM, Hazardous Waste storage and treatment facilities, tube wells, Water supply lines, Effluent drains and final outlets for the disposal of the effluent.
9. Submitted source type is Municipal supply while Source Name is PUBLIC HEALTH THROUGH TANKERS in the application and submit proof of valid source of water supply/ CGWA permission for drinking purpose as well as sprinkling purpose.
10. Not submitted Compliance of NGT order dated 03.12.2020 in OA No. 667/2018 titled as Mahendra Singh V/S State of Haryana & Ors. and OA No. 679/2018 titled as Tejpal Singh V/s State of Haryana & Ors.

The respondent filed reply wherein he replied all the deficiencies as pointed in the show cause notice in a tabular form which is reproduced as follows:

*Justo*

Sr. No.	Observation	Reply
1	Siting Norms parameters report submitted alongwith application have neither mentioned anywhere name of the Proposed project Le M/S CHETNA STONE CRUSHER at Kheeat NO 416, Khatoni No. 489 M/Kila No. 86//14(3-5), 17(7-5), 24 Min North (2-14) at Village-Amarpur Jorasi, Narnaul, Distt-Mohindergarh nor any proof for certifying the prescribed parameters from the prescribed concerned Authority as per Notification dated 11.5.2016 so issued in reference to the proposed project by the Environment Department, Govt. of Haryana	Copy of siting parameters report mentioned with Name of the stone crusher and land details i.e. M/S CHETNA STONE CRUSHER at Khewat NO 416, Khatoni No. 489, M/Kila Na 86//14(3-5), 17(7-5), 24 Min North (2-14) at Village-Amarpur Jorasi, Narnaul, Distt- Mohindergarh is attached herewith.
2	Submitted undertaking for deposition of performance Security of Rs. 5,00,000/- please clarify and correct as prescribed schedule/ Orders/ policy of the Board.	In this regarding submitted that clerical mistake in the undertaking Rs. 5,00,000/- instead of Rs. 50,000/-, correction of the same in the undertaking and copy of undertaking is attached herewith.
3	Not submitted CA. Certificate regarding capital investment cost w.r.t. land, building, plant and machinery of the proposed project	Copy of CA certificate is attached herewith.
4	Submitted Power of Attorney/ authority letter to sign the application for manufacturing of Stone crushing unit while project report submitted for Mineral grinding activity, please clarify.	In this regard submitted the proposed project is stone crushing unit and correction of the same in the project report, Copy of project report for stone crusher is attached in the online application.
5	Not submitted Design Scheme of Air Pollution Control Devices for Mineral Grinding unit as applicable based upon the Pollution load and prescribed standards, if proposed project relates to Mineral unit as per Mineral application Guidelines	In this regard submitted the proposed project is stone crushing unit & APCM scheme for control the air emission of stone crushing is attached in the online application.



	so issued in this regard.	
6	Siting parameter report submitted by Forest Department dated 24.11.2020 for both stone crushing unit and Mineral grinding unit as both are different Project having manufacturing activity including feeding of Raw material, Plant & machinery and even Air Pollution control Measures are also different and submit Siting parameter report accordingly as per applicable Notification dated 11.5.2016 in reference to Stone crushing unit and Mineral Grinding Guideline dated 2.4.2012 amended from time to time in reference to project as explained in this regard.	Copy of siting parameter report issued by the Forest deptt. of stone crushing unit in the Name of M/s CHETNA STONE CRUSHER is attached herewith.
7	Not submitted any readable Site plan of the proposed project.	Copy of site plan is attached herewith.
8	Not submitted Layout plan showing the details of all manufacturing processes, location of stacks/ chimneys, ETP/ STP, APCM, Hazardous Waste storage and treatment facilities, tube wells, Water supply lines, Effluent drains and final outlets for the disposal of the effluent.	Copy of layout plan is attached herewith.
9	Submitted source type is Municipal supply while Source Name is PUBLIC HEALTH THROUGH TANKERS in the application and submit proof of valid source of water Supply/ CGWA permission for drinking purpose as well as sprinkling purpose.	We have obtained permission from PHED Narnaul for lifting of treated water from STP for the purpose of plantation and wetting of the ground of the stone crushing site.

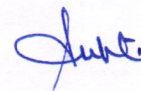
10	Not submitted Compliance of NGT order dated 03.12.2020 in OA No. 667/2018 titled as Mahendra Singh V/s State of Haryana & Ors and OA No. 679/2018 titled as Tejpal Singh V/s State of Haryana & Ors.	In compliance of NGT order dated 03.12.2020, submitted that our stone crushing unit siting parameters are meeting per notification dated as 11.05.2016 and we will use treated water from STP Narnaul for the purpose of plantation and wetting of ground of the stone crushing site and permission of the same obtained from PHED Narnaul. Hence we compliance the NGT order dated 03.12 2020.
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The respondent no.2 vide order dated 04.02.2021 (Annexure-7) refused consent to establish to the appellant for the reasons as follows:

*"Your above referred application has been examined by the Board and it has been established that the application submitted by you is incomplete and not conforming to the requirement of the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, as per policy of the Board. Accordingly, Show Cause Notice for refusal of consent to establish under above said Acts containing the said shortcomings incompletions was issued by the Board on dated 2020-12-11. But you have failed to submit the satisfactory reply of the above said show cause notice and submit compliance of the observation. You have failed to take corrective measures for the deficiencies and incompleteness in your application referred above as per details given below:-*

*As per advice of Head Office legal opinion of Legal Cell of Head Office and AAG Haryana at NGT New Delhi, CTE can't be granted in absence of carrying capacity of the area in term of air quality."*

Learned Counsel for appellant has argued that the stone crusher proposed to be established is at a secluded place having no other stone crushing unit within radius of 5 km of appellant unit. The respondents have refused consent to establish as per the order dated 4.2.2021 (Annexure-7) passed by the Hon'ble NGT in case Mahender Singh Vs. State of Haryana & others (OA No.667 of 2018 and another connected OA). This is not applicable to the case of appellant



because that order relates to establishment of crushers in clusters whereas, from the site of appellant there is no crushing unit within a radius of 5 km.

Learned counsel for respondents has argued that CTE applied by the appellant has been refused after taking legal advice from the office of Advocate General, Haryana. The Hon'ble NGT in its order dated 15.11.2021 passed in OA no.667 of 2018 has held that stone crusher cannot be allowed in absence of norm of carrying capacity of an area in terms of air quality to sustain operation of stone crushers. The impugned order has been passed after following due procedure as per policy of board and on obtaining legal opinion as such does not call for any inference in this appeal.

I have given careful consideration to the submissions of learned counsel for the parties and gone through the file of the case with their assistance.

The respondent while issuing show cause notice pointed out certain deficiencies in the application filed by the appellant which relates to furnishing or non-furnishing of certain documents. Point no.10 of the show cause notice reads as follows:

*“10. Not submitted Compliance of NGT order dated 03.12.2020 in OA No. 667/2018 titled as Mahendra Singh V/s State of Haryana & Ors and OA No. 679/2018 titled as Tejpal Singh V/s State of Haryana & Ors.”*

I have inquired from learned counsel for the respondent as to what compliance of NGT order dated 03.11.2020 passed in OA no.667 of 2018 and connected OA was required from appellant. He submitted that the directions in the above order of NGT are to be complied by the respondent and not the appellant.

Hon'ble NGT vide order dated 24.07.2019 passed in OA 667 of 2018 have given certain directions in para 5 of the order which are reproduced as



follows:

*"In view of the above unsatisfactory state of affairs, we require the Deputy Commissioner, Mahendergarh to ensure immediate closure of all illegally operating polluting stone crushers in the area and initiation of action by way of prosecution and recovery of compensation which must be deterrent and relatable to the cost of restoration so that illegal activity is not profitable. The compliance of environment norms including the Siting criteria, the ambient air quality, the carrying capacity of the area for permitting such polluting activity and health impact on the inhabitants may also be assessed. Such further compliance report be filed before the next date of hearing by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in)."*

This matter was again taken up by the Hon'ble NGT and vide order dated 03.12.2020 (Annexure-9) and directions were issued as contained in para 17 and 18 as follows:

17. *Accordingly, we direct that the joint Committee with the addition of the CPCB to take further steps in terms of order of this Tribunal dated 24.07.2019, quoted earlier for compliance of environmental norms in the light of the carrying capacity of the area and the health impact of the operation of stone crushers on the inhabitants. The joint Committee may go by the order of the High Court and the State Government as far as siting criteria is concerned but close illegally polluting stone crushers in terms of all other environmental norms, including the air quality, illegal water extraction. The joint Committee may also study the health impact on the inhabitants and take remedial action. The State PCB will be the nodal agency for coordination and compliance. The statutory authorities taking corrective measures may ensure due process of law.*
18. *Let an action taken and status report in the matter be furnished before the next date by e-mail at [judicial-ngta.gov.in](mailto:judicial-ngta.gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of image PDF. List again on 08.04.2021."*





Vide order dated 15.11.2021 (Annexure-R1 ) the Hon'ble NGT had nominated a six members Joint Committee to give report about the number of stone crushers and minerals grinding units which should be allowed and subject to what conditions, having regard to air pollution load and adverse impact on the public health. It has been stated that next date fixed in this case is 18.01.2023 and no norm regarding the carrying capacity and air pollution load and its impact on the public health have been fixed for the area concerned.

In the legal opinion given by Senior Advocate General, Haryana (Annexure-6) it was clearly stated that Hon'ble NGT has nowhere restrained or put any restriction on grant of CTE in the vicinity. Senior Advocate General clearly pointed out that refusal to grant CTE on account of matter being pending before Hon'ble NGT will not hold good in law. He advised that parameters of carrying capacity are required to be seen while granting CTE.

Admittedly, the norms of carrying capacity of the area concerned have not been fixed. It is also not disputed that around the stone crusher proposed to be established by appellant, there is no other stone crusher within a radius of 5 kms. The board has declined application of appellant on the basis of non-existing guidelines. It is duty of the board to issue clear guidelines with regard to the carrying capacity and requirement for establishment of a stone crusher and examine each case on the basis of parameters laid down by the board.

The order of refusal of consent to establish dated 04.02.2021 is a non-speaking order. It nowhere state as to how the reply of the appellant to the show cause notice was not satisfactory and what corrective measures for the deficiency pointed out in the show cause notice have not been taken.

It nowhere states as to what compliance of order of NGT dated 03.12.2020



in OA 667 of 2018 is required from the appellant. Every order passed by statutory authority is required to be a speaking and reasoned order.

In view of the facts discussed above, the appeal is accepted and the impugned order is set aside. The Regional Officer, HSPCB, Dharuhera will re-examine the application of the applicant in view of the guidelines issued by the respondent and Hon'ble NGT for setting up of stone crushers in area concerned. If required the appellant will be given an opportunity of personal hearing and the application of appellant for grant of CTE shall be disposed of by a speaking and well reasoned order. No order as to cost.

Dated 08.12.2022



Appellate Authority