



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 10th July, 2024.

Pronounced on: 3rd September, 2024

+ W.P.(C) 5840/2022, CM APPL. 17524/2022, CM APPL. 17686/2022

G. T. KARNAL ROAD INDUSTRIAL ESTATE CETP SOCIETY
(REGD.)Petitioners

Through: Mr. Shiv Charan Garg, Mr. Imran
Khan, Ms. Jahanvi Garg and Mr.
Raghav Garg, Advocates.

versus

THE GOVERNMENT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Rishikesh Kumar, ASC for
GNCTD with Ms. Sheenu Priya, Mr.
Atik Gill, Mr. Sudhir Kumar Shukla
and Mr. Sudhir, Advocates.
Mr. Kush Sharma, Ms. Vagmi Singh
and Mr. Nishchaya Nigam, Advocates
for DPCC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.

1. The Petitioner is aggrieved by the order dated 7th July, 2021¹ passed by Respondent No.2 imposing Environmental Compensation on the Petitioner, and the subsequent communication dated 27th October, 2021 issued to the District Magistrate seeking appropriate directions for recovery of Environmental compensation from the Petitioner. Although the prayer clause does not explicitly mention these specific documents owing to an

¹ "Impugned Order"



inadvertent mistake, it is understood from the narration made in the petition that the Petitioner seeks to set aside the same.

BREIF BACKGROUND

2. The Common Effluent Treatment Plant² are treatment system specifically designed for collective treatment of effluent generated from Small Scale Industries/ Units in an industrial cluster. The concept of CETP has been accepted as a solution for collecting, conveying, treating, and disposing of the effluents from the industrial estates. The effluent includes industrial wastewater and domestic sewage generated from the Industrial Area/ Estate. This CETP concept helps small and medium scale industries to dispose of their effluent after treatment in the CETP. The “*Consent to Establish and Consent to Operate*” is required to be taken from Delhi Pollution Control Committee³- Respondent No. 2, for establishment as well as operation of CETPs under the Water (Prevention and Control of Pollution) Act, 1974 for discharge of effluent and under the Air (Prevention and Control of Pollution) Act, 1981 for emission of air pollutants from the process of treatment.

3. The National Green Tribunal⁴ through their judgment dated 13th January, 2015 in case titled as *Manoj Mishra vs. Union of India & Ors.*, has given directions to operationalize CETPs in concerned areas of Delhi. The Tribunal has asked Central Pollution Control Board⁵ to submit information regarding compliance and non-compliance of Effluent Treatment Plants, Sewage Treatment Plants and CETPs. CPCB has also been asked to evolve

² “CETP”

³ “DPCC”

⁴ “NGT”

⁵ “CPCB”



environmental compensation regime for non-complying plants which do not meet the prescribed standards.

4. In this background, DPCC collected samples from the outlet of G.T.K. Road CETP from January, 2019 to October, 2020 and on the basis of analysis report generated, found the Petitioner not to be meeting the prescribed effluent standards. The DPCC through several communications dated 22nd August, 2019, 26th November, 2019, 07th February, 2020, 13th October, 2020 and 18th November, 2020 called upon the Petitioner/CETP Society for taking rectification measures to meet the Prescribed Effluent Standards, which have been responded to by the Petitioner *vide* letters dated 2nd September, 2019, 6th December, 2019, 25th February, 2020, 21st October, 2020. In the meantime, CPCB through their communication dated 26th November, 2020 issued various directions which reads as follows:

“a) DPCC shall direct the non-complying CETPs to take immediate corrective actions to comply with the prescribed effluent discharge standards.

(b) In case of non-complying CETP actions as deemed fit, including levying of Environmental Compensation shall be taken.”

5. In view of the CPCB directions as mentioned above, DPCC issued directions to the Petitioner under section 33 (A) of the Water Act, 1974, on 15th December, 2020 to take immediate corrective actions and ensure proper Operation and Maintenance of the CETP by complying with the prescribed Effluent Discharge Standards and submit the Compliance Report to DPCC within 15 days. The Petitioner submitted a reply dated 24th December, 2020, giving their response. Thereafter, DPCC issued a show cause notice dated 5th April, 2021, proposing to impose a cost of INR 90,00,000/- @ Rs. 5,00,000/- for each failure of sample of CETP. The Petitioner responded to



the said show cause notice on 8th April, 2021, which reads as follows:

*“To,
Shri K.S. Jayachandran,
The Member Secretary,
Delhi Pollution Control Committee,
5th Floor, I.S.B.T Building,
Kashmere Gate, Delhi - 110 006*

Reg.:- *Your show cause notice no DPCC/WMC-II/CETP/EC/2021/5896-8598 dated 05.04.2021.*

*Sir,
Reference your above show cause notice, we submit as under –*

- 1. You are fully aware that CETP at G.T. Karnal Road Industrial Area is 100% owned by Commissioner of Industries, Delhi. Further Commissioner of Industries is also an appropriate authority for all CETP in Delhi.*
- 2. You are fully aware that the CETP at G.T.K. Road Industrial Area was constructed by DSIDC as designed by NEERI based on the Survey conducted by them by the way back many years- Thus, CETP is 100% owned by Govt. of India.*
- 3. The CETP at G.T. K. Road Industrial Area is designed to control five parameters i.e. PH, COD, BOD, TDS and TSS and only these tests of five parameters were recommended and facilitated by NEERI as the CETP could achieve them only. However, it was agreed that the inlet of the plant shall be controlled by the appropriate authorities to ensure the received/ effluent is free from biological waste and other inorganic impurities but till today there in no control of any authority over the inlet, in-spite of this all the parameters have been successfully achieved by the society since the last more than 15 years.*
- 4. The DPCC was a party in all proceedings at all times of the above facts. You are fully aware that the society is just assisting in operation and maintenance of the Plant entrusted to the society by the appropriate authority under their day to day instructions, which is self explanatory as per agreement dated 20.07.2005. The copy of the same is also available with you or otherwise it can be provided to you again on demand.*
- 5. Any parameters like Cd, Cr, Pb, Ni, Sulphides etc. are to be controlled by the industrial units as all the industrial units are operating their units under your permissions given to them under strict terms & conditions followed with installation of individual ETP at each & every discharging point of*



every industrial unit. Therefore, either the industrial units are running their activities without EPA or improper use of their ETPs causing their effluent containing the aforesaid contents of impurities and therefore it have no relations with CETP Society. Further society does not agree with the samples/ analysis report, made at the back of the society and no samples left with the society for the second opinion of other testing laboratories.

6. The CETP Plant has completed its age and needs to be changed with new designs and technology and the same is known to the appropriate authorities since the last many years.

7. Under the above circumstances, it is submitted that there is no reason to issue the aforesaid show cause to the society in any manner and accordingly we humbly request you to please withdraw the above show cause notice under intimation to the society.

Best regards

(Management Committee)”

6. DPCC has considered the said response and through impugned decision dated 7th July, 2021, rejected the Petitioner's contentions in the following terms:

“Now therefore in view of the above Show Cause Notice issued by DPCC on 05.04.2021 and after considering the reply received with respect to said Show Cause Notice from the "Addressee" the competent authority in Delhi Pollution Control Committee has decided to issue following directions:

*1. That You, the President of the **GTK Road Industrial Estate CETP Society**, CETP Complex Society Building, B-Block, GTK Road Industrial Area, Delhi 110033 shall deposit the **Environmental Compensation of Rs 90,00,000 (Rupees Ninety Lakh only @ Rupees Five Lakh for each failure of Sample or CETP not found operating/ by passing the effluent** by way of Demand Draft in favour of Delhi Pollution Control Committee within 15 days from the date of issue of these directions.*

*2. That You, the President of the **GTK Road Industrial Estate CETP Society**, CETP Complex Society Building, B-Block, GTK Road Industrial Area, Delhi-110033 shall take immediate necessary rectification measures to ensure that CETP meets the prescribed standards and shall also inform this office about the rectification measures taken within 15 days from the date of issue of these directions.*

Please note that the non-compliance with respect to the above mentioned



directions will be construed as the non-compliance of the orders of Hon'ble National Green Tribunal in O.A.No.06 of 2012 and O.A.No.300 of 2013 in the matter of Manoj Mishra Vs. Union of India & Ors and OA No. 673/2018 in the matter of News item published in 'The Hindu' authored by Shri Jacob Koshy titled "More river stretches are now critically polluted: CPCB" and the provisions under the Water (Prevention and Control of Pollution) Act, 1974.

This issues with the approval of the competent authority in Delhi Pollution Control Committee.

*(Dr. K.S. Jayachandran)
Member Secretary, DPCC"*

7. A perusal of the aforesaid order reveals that the conclusion arrived at by the DPCC is without any reasons. The Petitioner has raised several contentions as noted in the reply dated 8th April, 2021 which have neither been adequately considered nor properly addressed.

8. Additionally, apart from the contentions raised in the reply dated 8th April, 2021, it is also now contended that the office bearers of the Petitioner society are over 70 old and serve purely on an honorary basis, having received no compensation during the last 15 years. Moreover, through communication dated 17th December, 2019 and 21st October, 2020 issued to DPCC, the Petitioner has also pointed out that the terms of the agreement dated 20th July, 2005 for maintenance and operation of common Effluent Term Plant has expired and in the absence of any valid agreement, they were no longer a party to the project. Furthermore, the DPCC has also not disclosed the basis on which the environmental composition has been computed. These pertinent issues also need to be considered before passing a reasoned order.

9. In view of the above, in absence of any reasons to support the conclusions, the Impugned Order dated 7th July, 2021 cannot sustain.



10. Accordingly, the writ petition is allowed and the Impugned Order dated 7th July, 2021 and subsequent communication dated 27th October, 2021 are hereby quashed and set aside.

11. The matter is remitted to DPCC for fresh consideration. DPCC shall recommence the proceedings from the stage of reply dated 8th April, 2021 submitted by the Petitioner. The Petitioner shall be also permitted to produce additional material/ documents that they may choose to rely upon before the Respondents within a period of three weeks from today. The Respondents shall consider the same and take a fresh decision thereon. Additionally, the issue raised by the Petitioner regarding the CETP having completed its life shall also be examined and suitable action be taken in terms thereof. The DPCC shall proceed in the matter with due expedition.

12. It is clarified that all rights and contentions of the parties are left open and the Court has not rendered any opinion on the merits of the case.

13. The petition is allowed in the above terms.

14. Disposed of along with pending applications.

SANJEEV NARULA, J

SEPTEMBER 03, 2024

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