

Item No. 09

Court No. 1

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

Original Application No. 262/2020
(Earlier O. A. No. 37/2019 (CZ)) (I.A. No. 65/2019)

Hakam Singh & Anr.

Applicant(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of hearing: 11.02.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Pushpinder Singh, Advocate
Respondent: Mr. Sundaram Singh, Advocate for R-6

ORDER

1. Question for consideration is compliance of environmental norms by the brick kilns in Sri Ganganagar District in Rajasthan. Particular grievance is absence of requisite consents under the Air and the Water Acts and siting criteria resulting in air pollution. The matter was considered earlier by the Central Zonal Bench, Bhopal vide order dated 15.10.2020. In view of pendency of O.A. No. 1016/2019, *Utkarsh Panwar v. Central Pollution Control Board & Ors.* before the Principal Bench, this matter was referred to the Principal Bench for consideration alongwith the pending matter. The extract from the order are as follows:

“1. The issue raised in this application is emission of huge quantity of toxic elements form brick kilns, causing serious health hazards. The brick kilns emit toxic fumes containing suspended particulate matters rich in carbon particles and high concentration of carbon monoxides and oxides of sulphur (SOx) that are harmful to eye, lungs and throat. These air pollutants stunt the mental and physical growth of children. According to the data, the primary source of SOx in these areas are by brick manufacturing industry. And the primary source of NOx (nitrogen oxides) pollutants is also

from brick manufacturing industry. Also, nearly 25 to 26 per cent of the country's wood production are used for burning bricks every year, causing deforestation. The bricks are made for building. But the country's brick kilns are churning' out the basic ingredients for construction in a way that is doing more harm than good. It is not only crops that are being affected by the tons of smoke coming out of the chimneys. Experts now say that brick kilns are emitting harmful particulate matters (pm) into the air, which are responsible for the alarming rise of respiratory ailments. According to available statistics, thousands of brick kilns are operating in and around the District Ganganagar. The alarming figure suggests that inhabitants of surrounding areas are breathing more sulphur than oxygen. But the DoE seemed to be happy focusing their attention on bricks. There also seems to be a lack of proper monitoring of whether the brick kiln owners are obeying the Brick Kiln Control (amended) Act (2001), which prohibits the establishment of brick kilns within a three-kilometre radius of human inhabitation as well as fruit garden.

2. *It is further alleged that guidelines issued by the Rajasthan State Pollution Control Board, Jaipur have not been complied with and there is no state policy with regard to the control of pollution by the brick kiln industries.*

3. *It is further submitted that the zig-zag policy or zig-zag technology should be adopted. The similar matter is pending with Principal Bench of this Tribunal in Original Application No. 1016/2019 and we are of the view that the policy with regard to adoption of zig-zag technology or any other technology which is beneficial and comparatively less harmful should be adopted but the policy should be taken to be adopted throughout the county.”*

2. We are of the view that since O.A. No. 1016/2019 primarily relates to operation of brick kilns in NCR in the light of the assimilative capacity of air in NCR, the present matter can be considered separately.

3. The stand of the State PCB is *inter-alia* as follows:-

“However, it is submitted that State Board has identified 594 brick kiln units in Sriganganagar District. Out of the identified units 55 brick kilns are closed; 234 brick kiln are operating with valid consent to operate from the State Board; application of 80 brick kiln are under process with the State Board and out the remaining 225 brick kiln, the State Board has issued show cause notice for intended closure to 217 brick kiln and closure directions to 08 brick kiln.”

4. Learned counsel for the applicant submits that when 225 brick kilns are operating without any consent to operate, which is a matter of record, there is no need for show cause notice and on that pretext not closing such kilns amounts to permitting illegality. In any case, the said reply was filed by the PCB more than one year back i.e. on 30.01.2020 and show cause notices were reportedly issued in the year 2019, still the kilns are being allowed to operate illegally.

5. In view of the above, we are of the opinion that further follow up action needs to be taken to prevent illegal operation of brick kilns and recovery of environmental compensation for the period of illegal operation, following due process of law. For those not having consents, closure can be immediately, particularly when show cause notice has already been given. For those having consents, it is necessary to verify whether they are meeting the prescribed pollution norms and the siting norms. A joint Committee of CPCB, State PCB and District Magistrate, Ganga Nagar may look into these aspects and furnish a factual report within three months. The State PCB and District Magistrate may take remedial action against kilns operating without consent forthwith and for assessment and recovery of compensation, after following due process. Similarly, action be taken, in accordance with law, against those found non-compliant, and action taken report filed. Notice is not being issued to individual kilns, as the statutory authorities will follow due process while taking action, in exercise of their statutory powers, for which hearing by this Tribunal is not required. The reports may be filed by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

List for further consideration on 16.07.2021.

A copy of this order be forwarded to the CPCB, State PCB and District Magistrate, Ganga Nagar by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

February 11, 2021
Original Application No. 262/2020
A