

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S No.201-SBA of 2002 (O&M)

Decided on: 22.09.2017

Punjab State Board

....Appellant

Versus

M/s Jagjit Paper Mills Private Limited

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Tajinder Pal Singh Makkar, Advocate
for the appellant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this appeal is for setting-aside the judgment dated 09.04.2001 passed by the Additional Sessions Judge, Hoshiarpur vide which, while allowing the appeal filed by the appellant – M/s. Jagjit Paper Mills Private Limited (respondent herein), the judgment of trial Court dated 02.03.1998 imposing a fine of Rs.50,000/- was set-aside and the appellant (respondent herein) was acquitted of the charge framed against him.

Brief facts of the case are that the appellant – Punjab State Board for the Prevention Control of Water Pollution Patiala (hereinafter to be referred as 'the Board') filed a complaint under Sections 44/47 of the Water (Prevention and Control of Pollution) Act, 1974 (in short 'the Water Act') with the allegation that accused No.1 is a company defined under Section 47 of the Water Act and is doing the business of manufacturing of paper board since 1983. Accused No.2 is the Managing Director, who managed the affairs of the company,

supervising and controlling day to day business of the company. It is further alleged that the accused – company is discharging a lot of trade effluent since its commissioning in the shape of water mixed with chemicals and solids for stagnation on the land.

On the application filed by the accused/company under Section 25 and 26 of the Water Act, a consent was granted for one year on 20.06.1984, however, after the expiry of the aforesaid period, the industry did not get the consent renewed and since then, is discharging its trade effluent without the consent of the Board and as provided under the Water Act, hence, they are liable for prosecution.

The respondents were summoned by the trial Court and, thereafter, the complainant examined PW1 – Rakesh Goel, PW2 – Jagdish Lal, SDO, PW3 – Rajbir Singh Bhangga, PW4 – Harinder Singh and PW5 – P.L. Saini, who all deposed on the line of the complaint and stated that the respondents have violated the provisions of the Water Act.

In the statement recorded under Section 313 Cr.P.C., the accused – Jagjit Singh has stated that his factory is not an agro based and no chemical is used for preparing pulp and it was denied that they have committed any offence.

In defence, DW1 – Prabh Singh Arshi and DW2 – Udham Singh were examined.

The trial Court, thereafter vide its judgment dated 02.03.1998 acquitted the accused No.2, however, convicted the accused No.1 – company and vide order of sentence directed it to pay a fine of Rs.50,000/- for offence punishable under Section 44 of the Water Act.

Feeling aggrieved, the respondent – company filed an appeal before the Lower Appellate Court and the same was allowed while acquitting the accused No.1. The operative part of the judgment passed by the Lower Appellate Court reads as follows:-

“8. I have gone through the file.

9. The trial Court seems to have drawn wrong conclusion while recording such a finding. At the trial, the complainant has examined PW4 Harinder Singh, Field Attendant who has stated in cross-examination that no reply was filed to the letter copy of which is Ex.D3. He has further stated in his cross-examination that it is correct that the original copy of Ex.D2 is lying in their record which has been addressed by the Environmental Engineer to the Member Secretary, Punjab Pollution Control Board, Patiala. No reply has been sent by the Board to this letter i.e. Ex.D2 by the Board. The copy of the letter Ex.D2 read as under:-

To

The Member Secretary,

Punjab Pollution Control Board,

Patiala.

Subject:- Renewal of consent No.871 dated 20.06.1984 of M/s. Jagjit Paper Mills Pvt. Ltd. V. Nasrula District Hoshiarpur.

It is requested that the industry was granted consent No.871 dated 20.06.1984 with certain conditions. The industry has since complied with these conditions and has applied for renewal of consent. A detailed report on compliance of conditions is attached alongwith. The industry has made complete arrangements to recirculate whole of the water used in the operation and no effluent is discharged out. It has submitted the latest balance sheet, article of memorandum, site plan, process flow sheet

drawing of recirculation system.

It is, therefore, recommended that the consent of the industry be renewed upto February 28, 1988.

10. The Environmental Engineer has written to the board for the grant of consent i.e. extending the consent already granted vide No.871 dated 20.06.1984 but the Board has not taken any step to grant the consent. In this regard, Section 25(7) of the Act reads as under:-

“The consent referred to in sub-section(1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.”

The Environmental Engineer of the Board has written letter copy of which is Ex.D2 that the accused industry has complied with all the formalities and he has also recommended that the consent of the industry be renewed upto 23 February, 1988 after the expiry of period of four months, the consent is deemed to have been extended. This aspect of the case has wholly ignored by the trial Court while recording conviction of the accused. In the complaint itself, it is nowhere mentioned when the factory of the accused company was inspected by the officials of the Board.

11. In view of what has been said above, hold that violation of Section 25/26 of the Act is not proved. Appeal is accordingly allowed and judgment and order are set-aside and the accused/appellant is acquitted of the charge framed against the accused or framed against them. Fine if paid be refunded to the accused company. Record of the trial Court be returned. File be consigned.”

Counsel for the appellant has argued that since it is proved

on record that after the expiry of period of the consent given by the

Board, the respondent/accused was discharging the trade effluent, it has violated the provisions of the Water Act and thus, the violation of Section 25 is made out.

After hearing counsel for the appellant, I find no merit in the case. Admittedly, the trial Court has acquitted the accused No.2 qua which no appeal was filed by the appellant – Board. Perusal of the letter Ex.D2 show that the industry was granted the consent vide letter dated 20.06.1984 with certain conditions which were complied with and, therefore, subsequently as per this letter (Ex.D2) written by the Environmental Engineer, it was recommended to extend the consent, however, there is no order on record to show that the consent was declined and, therefore, the Lower Appellate Court has rightly held that no violation of Sections 25/26 of the Water Act is made out.

No ground for interference is made out.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

22.09.2017
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No