

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1485 of 2017
Date of decision: 17.4.2017

M/s R.R. Industries and Ors.

.... Petitioners

Versus

Haryana State Pollution Control Board & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON.
HON'BLE MR. JUSTICE DARSHAN SINGH.

Present: Mr. Ankit Chowdhri, Advocate for the petitioners.

Mr. S.S. Pannu, DAG, Haryana for the State.

Mr. Randhir Singh, Advocate for the respondents No.1 to 6–
Haryana State Pollution Control Board.

S.S. Saron, J.

The petitioners – M/s R.R. Industries, Faridabad and others have filed the present petition under Articles 226/227 of the Constitution of India seeking quashing of the order dated 22/26.08.2016 [Annexures P-5 (1 to 12)] passed by the Haryana State Pollution Control Board, Panchkula ('Board' – for short) (respondent No.1) whereby it is alleged that the Board has arbitrarily ordered to seal the premises of the petitioners-units engaged in Water Packaging and has also sealed the same in furtherance thereof, without providing adequate time to the petitioners to comply with the requisite formalities in view of the Instructions issued by the Board (respondent No.1) vide No. HSPCB/ EE/ 2016/706-717 dated 1.6.2016 (Annexure P-2) as prior to the said instructions, the petitioners-units were not within the ambit of consent management of the respondents-Departments/Boards.

A further prayer is made for directing the respondents to grant appropriate relaxation with regard to the norms as well as to extend the time already granted to the petitioners units for doing the requisite formalities in order to take consent to establish as well as consent to operate from the Board and other Departments.

The petitioners-units were established to carry out the business and activities of water packaging. They have been engaged in the said activities since the year 2005 onwards. Appropriate licenses from various Departments of the Government have been obtained for carrying out the activities of water packaging. Earlier to 01.06.2016 the petitioners-units were governed by notification dated 15.4.2014 issued by the Board. In terms of the said notification, the petitioners-units were exempt from the consent management of the Board (respondent No.1). They were not to take consent to establish and consent to operate from the Board but were only to provide pollution control devices depending upon their process and activity. However, vide notification dated 01.06.2016 (Annexure P-2) issued by the Board (respondent No.1), the water packaging units have come within the ambit and purview of Consent Management Programme. Directions were issued to take appropriate action so that the Units could only operate after taking consent to establish and consent to operate from the Board (respondent No.1). Therefore, the units were issued show cause notices under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 ('Water Act' – for short) and Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981 ('Air Act' – for short). In terms of the show cause notices that were issued, it was stated that as per Sections 25 and 26 of the Water Act and Sections 21 and 22 of the Air Act prior consent of the Board is to be taken in order to establish and operate an industrial plant. Thereafter, the impugned order was passed for closing/sealing the petitioners-units.

It is to be noticed that it is not in dispute that the petitioners have the remedy of assailing the orders of which they seek invalidation before the Appellate Authority under the Water Act and Air Act.

Learned State Counsel has placed on record three orders dated 14.4.2017 passed in terms of Section 28 (1) (2) of the Water Act and Section 31 (1) (2) of the Air Act as also sub Rule 19 of the Bio Medical (Waste Management & Handling), Rules, 1998 whereby Appellate Authorities have been constituted and Members have been appointed.

In view of the above, the petitioners may, if so advised, in the first instance approach the Appellate Authority for redressal of their grievances in accordance with law.

The writ petition stands disposed of accordingly.

(S.S. Saron)
Judge

(Darshan Singh)
Judge

17.4.2017
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Note:

1. Whether the order is speaking/reasoned: Yes.
2. Whether the order is reportable : No.