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

+ **W.P.(C) 15198/2024 & CM APPL. 63725/2024**

ARUN KUMAR JAIN

.....Petitioner

Through: Mr. Kunal Rawat, Ms. Dolly Verma,
Ms. Ekta, Advocates

versus

DELHI POLLUTION CONTROL COMMITTEE & ANR.

.....Respondents

Through: Ms. Sakshi Popli, Advocate for
DPCC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

03.12.2024

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1. The present petition impugns order dated 20th February, 2023, passed by Respondent No. 1, Delhi Pollution Control Committee,¹ whereby the industrial unit M/s Jeans Dyeing & Washing Unit situated at premises bearing No. 80, Pocket-G, Sector-4, Bawana Industrial Area, New Delhi-110039,² was sealed and an Environmental Damage Compensation³ of INR 47,00,000/- was imposed on the Petitioner.

2. A brief background leading to the filing of the present petition is as follows:

2.1. The Petitioner, Mr. Arun Kumar Jain, is the tenant of the premises in

¹ "DPCC"

² "the premises in question"/ "the industrial unit"

³ "EDC"



question executed with Mr. Kamlesh Kumar Sindhvani, Respondent No. 2,⁴ through Rent Agreement dated 7th February, 2019. From this rental premises, the Petitioner was running his unit under the name and style of M/s Jai Feb Care for which the Petitioner had received a Consent to Establish dated 29th March, 2019 under Section 21 of Air (Prevention and Control of Pollution) Act, 1981 and under Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974 under Orange category. The said order was issued for the product/activity “*Readymade Garment with Electric/Gas fired boiler (with washing)*” with the manufacturing activity being “*WASHING OF READYMADE GARMENTS WITH SPRAY AND OILFIRED BOILER/PNG.*”

2.2. On 31st July, 2019, the National Green Tribunal, Principal Bench, New Delhi in O.A. No. 620/2019,⁵ issued directions to Joint Committee of Central Pollution Control Board, DPCC and concerned District Magistrates to furnish an action taken report within a period of one month from the date of the order with respect to alleged polluting activities being carried out by red category industries located in Bawana Industrial Area, Mayapuri Industrial Area, Uttam Nagar and Khyala.

2.3. In compliance with the afore-noted order, on 23rd August, 2019, DPCC conducted an inspection of the premises in question, however, the industrial unit was found locked from outside. It was also reported that the industrial unit was operating without a valid Consent to Establish/Operate and consequently, on 17th September, 2019, DPCC issued a closure direction under the Water (Prevention and Control of Pollution) Act, 1974 and Air

⁴ “the premises in question”

⁵ titled as *Varun v. Delhi Pollution Control Committee*



(Prevention and Control of Pollution) Act, 1981 including the imposition of EDC of INR 47,00,000/- against M/s Jeans Dyeing & Washing Unit.

2.4. Aggrieved by the same, the Petitioner submitted a representation to DPCC on 2nd September, 2019 for removal of plant and machinery from the property in question. The said representation was disposed of through letter dated 27th February, 2020 stating directing him to deposit the EDC and prohibiting him to establish/operate any new unit in the premises without a valid Consent to Establish/Operate.

2.5. Pursuant to the Court's directions in W.P.(C) 10231/2019 filed by the Mr. Kamlesh Kumar Sindhvani, a show cause notice was issued to M/s Jeans Dyeing & Washing on 11th June, 2020 calling upon them to answer as to why the EDC amount should not be imposed.

2.6. Thereafter, the Mr. Kamlesh Kumar Sindhvani submitted a representation dated 8th September, 2022 seeking review/recall of the directions issued against M/s Jeans Dyeing & Washing. Additionally, he filed W.P.(C) 13516/2022 stating that he was unaware that the Petitioner has violated environmental norms and has undertaken industrial activity in the property in question without a Consent to Establish/Operate. This Court, through order dated 31st October, 2022 directed DPCC to take a final decision on the representation dated 8th September, 2022 for de-sealing of the property in question, within one month from date of the order.

2.7. Subsequently, DPCC passed the impugned order dated 20th February, 2023 and confirmed the EDC awarded through order dated 17th September, 2019 to be in terms of the EDC Compensation Policy dated 20th May, 2019. It was observed that M/s Jeans Dyeing & Washing Unit was operating without obtaining valid consent from DPCC for dyeing activity and without



mandatory pollution control measures.

2.8. Mr. Kamlesh Kumar Sindhvani filed W.P. (C) 3224/2023 challenging the action of sealing taken by the DPCC. The said petition has been decided today by way of a separate order directing de-sealing of the premises with liberty to DPCC to take appropriate action, in accordance with law against, Mr. Arun Kumar Jain, for recovery of the EDC amount.

2.9. During the proceedings in W.P.(C) 3224/2023, Petitioner herein raised a concern regarding his machinery and equipment installed in the premises in question. On 3rd September, 2019, he was informed that there has been a theft of the machinery and equipment at the premises in question and an FIR to that effect was lodged at Police Station Bawana.

2.10. Be that as it may, to get clarity on this issue, in W.P.(C) 3224/2023, the Court had, by order dated 28th October, 2024, directed re-inspection of the premises to apprise the Court on the current status on the machinery and equipment lying in the premises. In compliance of the said directions, DPCC filed a status report dated 21st November, 2024, indicating that the re-inspection was conducted in the presence of Mr. Sandeep Sindhvani, son of Mr. Kamlesh Kumar Sindhvani, Mr. Arun Kumar Jain and the DPCC officials. It was noted that the premises were found to be vacant and no equipment was found.

3. In light of the report furnished by the DPCC, Petitioner seeks liberty from the Court to take appropriate action for the damages suffered by him on account of the machineries and equipment not being found in the premises which had been sealed by DPCC.

4. Ms. Sakshi Popli, counsel for DPCC, controverts these allegations and states that no loss has been suffered by the Petitioner on account of the



sealing action of DPCC. She further refers to order dated 17th September, 2019 to highlight that when the inspection was carried out, the premises in question was found locked and therefore, DPCC was not aware of the articles lying therein.

5. The Court has considered the afore-noted contentions. The issue as to whether there was any equipment or machineries lying in the premises when it was sealed and whether any damages can be recovered from DPCC or from the landlord, is purely factual which would require the parties to lead evidence and therefore, such cases cannot be examined by this Court under in exercise of its powers under Article 226 of the Constitution of India.

6. In light of the above, the present petition is disposed of with the following directions:

i. The Petitioner shall be at liberty to take appropriate action for recovery of any alleged damages suffered by him, if so advised, in accordance with law.

ii. As regards the imposition of EDC, the Petitioner is free to make a representation to DPCC putting forth their stand within a period of four weeks from today, which shall be considered and decided by DPCC, in accordance with law.

7. It is clarified that the Court has not expressed any opinion the merits of the case and all rights and contentions of the parties are reserved.

8. With the above directions, the present petition, along with pending application, is disposed of.

SANJEEV NARULA, J

DECEMBER 3, 2024/ab