

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

2025:PHHC:011674-DB



(211)

**CWP-25140-2023
Decided on : 27.01.2025**

M/s Regent Garage Pvt. Ltd.

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE SHEEL NAGU,CHIEF JUSTICE
HON'BLE MR.JUSTICE SUMEET GOEL**

Present: Mr. Jitender Dhanda, Advocate,
Ms. Suman Sagar, Advocate &
Ms. Sweety Chahal, Advocate for the petitioner.

Mr. Deepak Balyan, Addl.AG, Haryana.

Sheel Nagu, Chief Justice (Oral)

1. The present writ petition under Articles 226/227 of the Constitution of India has been filed by the petitioner against whom the impugned order dated 05.10.2023 (Annexure P-9) has been. The question left to be decided was pertaining to the impugned order passed by Haryana State Pollution Control Board to be classified as an order passed under the ambit of Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter 'The Water Act, 1974').

2. It is evident from the nature of the order, which imposes punitive measures for non compliance of environmental norms, a power that aligns

with the regulatory authority vested in the Board. The directive, being coercive in nature, falls squarely within the scope of enforcement actions contemplated under the Act. Therefore, the classification of the impugned order under Section 33-A stands affirmed. It is also evident from a reading of the impugned order dated 05.10.2023 (Annexure P-9) that directions had been issued to the petitioner to deposit environmental compensation of Rs.16,25,000/- within a period of 30 days on account of damages caused by the Unit to the environment.

3. A perusal of show cause notice dated 05.01.2019 (Annexure P-1) goes on to show that the unit discharging the environmental pollutants are in excess of prescribed standards, which is the cause for imposition of environment compensation on polluter pays principle.

4. The learned counsel representing the parties have been heard on the question of admission as well as final disposal of the petition.

5. On being confronted with the availability of alternative remedy under Section 33-B of the Water Act, 1974, the learned counsel representing the petitioner submits that there is no provision for environmental compensation which is based on a judge made law. He also submits that the present case shall not be covered by Section 33B(c) of the Water Act, 1974.

6. Appeal to such authority (as the State Government may think fit to constitute) is maintainable against the Board's orders passed under Section 25, 26 and 27 of the Water Act, 1974. However, Section 26 and 27 of the Water Act, 1974 are not applicable in the present case. The Board under Section 33-A has the power to issue any direction to any person/officer or authority including the power to direct the closure, prohibition or regulation of

any industry, operation or process or the stoppage or regulation of supply of electricity, water or any other service. The phrase “issue any direction” in the context of Section 33A of the Water Act, 1974, has been explained in the explanation while using the word “includes” which proves that power to issue directions is not restricted to the words used in the explanation. The use of word “include’ itself indicates that the expression “any directions” has a wider meaning so as to include direction to pay environmental compensation. The directions issued under Section 33-A, by the Board are appealable before National Green Tribunal (“NGT”).

7. The Apex Court in ***Tamil Nadu Pollution Control Board vs. STERLITE INDUSTRIES (I) LTD. & ORS , 2019 AIR SC 1074***, laid down that if an order is co-jointly passed by the Board under Section 33A of the Water Act, 1974 as well as under Section 31A Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as 'the Air Act'), then no remedy against such order is available except for filing a petition under Article 226 of the Constitution of India. However, as already noticed in this case, direction has been issued to pay the environmental compensation on exceeding the prescribed limits, which falls within the scope of the Water Act, 1974. Hence, the petitioner has statutory effective remedy before NGT under Section 33-B of the Water Act, 1974.

8. In view of the above, the writ petition is disposed of with liberty to the petitioner to avail remedy under Section 33-B(c) of the Water Act, 1974, by approaching the NGT, where the petitioner is free to seek interim relief in accordance with law.

9. Needless to observe that this court has made no comments on merits of the claim of the petitioner and the NGT will be free to decide the matter independently uninfluenced by observations made by this court.

(SHEEL NAGU)
CHIEF JUSTICE

January 27, 2025
Naveen

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No